

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION (ST) NO.2460 OF 2017**

Dilip B. More and anr .. Petitioners
Versus
The Special Land Acquisition
Officer No.21, Satara & ors .. Respondents

...

Mr.PB. Shah with Kayval Shah for the petitioners.
Mr.Vikas Mali, AGP for the State.

**CORAM: DR. MANJULA CHELLUR, CJ. &
M.S.SONAK, J.**

DATED: 30th OCTOBER, 2017

P.C.:-

1 Petitioners are before this Court seeking a declaration that the Land Acquisition proceedings initiated in the year 2000, be declared as lapsed in terms of sub-section (2) of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “2013 Act”).

2 According to the first petitioner, he owns a land in Survey No.36/2 admeasuring about 0.44 Ares, and so far as second petitioner, he owns a land in Survey No.36/3 admeasuring about 0.44 Ares of land situated at village Sherichi Wadi, Phaltan Taluka, District Satara. Apparently,

Tilak

the lands were said to have been acquired for Dhom Balakwadi project. Reply affidavit of the State clearly indicate that though these two lands were acquired for Dhom Balakwadi project by acquisition proceedings of 2000, till date, neither compensation is paid to the owner nor possession of the land is taken over.

3 2013 Act has come into effect from 1st January 2014 replacing Land Acquisition Act, 1894. Section 24 deals with the consequences of initiating acquisition proceedings prior to 1st January 2014, and so also indicate what happens to the proceedings if possession of the land is not taken, or compensation not paid if acquisition proceedings are completed, and if the award is 5 years or more than 5 years prior to 31st December 2013. It would be useful to refer to sub-section (2) of Section 24 which reads as under :-

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

4 In terms of Section 24(2) of the 2013 Act, even if one of the instances contemplated under sub-section (2) of Section 24 i.e. either non-payment of compensation or not taking possession exists, the Land Acquisition proceedings are lapsed if the award is 5 years old, or older than 5 years as on 1st January 2014. In the present case, both conditions are applicable.

5 In that view of the matter, we declare that the Land Acquisition proceedings pertaining to the land in question have lapsed.

(M.S.SONAK, J)

(CHIEF JUSTICE)