

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 6285 OF 2014

Shri. Anandrao Khanderao Gaikwad ...Petitioner
Versus
The State Of Maharashtra And Ors ...Respondents

Mr.Uday Bobade i/b. Mr.Suresh Sabrad, for the Petitioner.

Mr.P.G.Sawant, AGP for the Respondents 1 to 6 – State.

CORAM : **DR. MANJULA CHELLUR, C. J., &
G.S.KULKARNI, J.**

DATE : **FEBRUARY 23, 2017**

P. C.

1. The Petitioner approached this Court challenging the very acquisition of the land in Gat No.318-B which became the subject matter after the acquisition notification in the year 1982 as indicated in “Exhibit A-1” at page 18A. The land in question is situated at Village Kakhe, Taluka Panhala, District Kolhapur. As indicated in the award, land at Gat No.318-B is admeasuring 1 H. 21 R. According to the Petitioner, in spite of the award being made in the year 1982, till date he is in possession and enjoyment of the property. He also contends that no compensation is paid

and no possession is taken over. Though the order of status-quo came to be made way back on 24 September 2014 which is continued till date, the Respondents-Authorities have not placed any reply affidavit on record denying the factual position in regard to the possession and payment of compensation as contended in the Writ Petition. In the absence of any reply, we presume that the averments in the Writ Petition supported by the oral arguments of the learned Counsel for the Petitioner are true and correct.

2. With the repeal of the Land Acquisition Act, 1894, from 1 January 2014 the new enactment viz. "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('the Act of 2013') has come into force. Section 24 of the Act of 2013 contemplates the consequence by operation of law if no award was made under Section 11 of the Land Acquisition Act, till coming into force of the new enactment. This is under Sub-section (1) of Section 24. Sub-section (2) of Section 24 of the 2013 Act speaks of two situations where the land acquisition proceedings even if completed with an Award under Section 11 of the 1894 Act, if

possession is not taken and if compensation is not paid, the acquisition proceedings get lapsed. So far as the present case, sub-section (2) of Section 24 of the 2013 Act comes into play. The consequence of non-payment of compensation and not taking possession of the property, would result in lapsing of the proceedings under the 2013 Act.

3. Accordingly, the petition is allowed declaring that the land acquisition proceedings so far as Survey No.318-B, land admeasuring 1 H 21 R situated at Village Kakhe, Taluka Panhala, District Kolhapur, are lapsed.

4. Writ Petition is accordingly disposed of.

5. In view of disposal of the Writ Petition, pending Civil Application does not survive. It is accordingly disposed of.

(G.S.KULKARNI, J.)

(CHIEF JUSTICE)