

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4985 OF 2014**

Shri. Dattatraya Vithalrao	}	
Mandhare and Anr.	}	Petitioners
versus		
State of Maharashtra	}	
and Ors.	}	Respondents

Mr. Vilas Tapkir for the petitioners.

Mr. A. B. Vagyan-Government Pleader
with Mr. P. G. Sawant-AGP, Ms. Geetanjali
Golatkhar-AAGP and Mr. Rohan Sawant-
AAGP for State.

**CORAM :- DR. MANJULA CHELLUR, C.J. &
N.M.JAMDAR, J.**

DATE :- SEPTEMBER 11, 2017

P.C. :-

1. The petitioners before this court are challenging the land acquisition proceedings and further seeking a declaration that the said land acquisition proceedings have lapsed for the reasons stated in the writ petition.

2. Apparently, the petitioners are the owners of land in Gat No. 1432 admeasuring 2 hectares situated at village Shikrapur, taluka Shirur, district Pune. According to them, the procedure contemplated for acquisition of land, in terms of the Land Acquisition Act, 1894 as well as the Maharashtra Project Affected Persons Rehabilitation Act, 1986 are completely violated for the fact that after the final notification under section 6 of the Land

Acquisition Act, 1894 by the Gazette dated 14th November, 1991, award never came to be passed in terms of section 11A of the Land Acquisition Act, 1894.

3. Further, it is contended that subsequent to coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the “Act 30 of 2013”), their claim of lapsing of acquisition is substantiated for the reason that no compensation came to be paid as on 1st January, 2014 in terms of section 24 of the Act 30 of 2013. By virtue of order dated 30th March, 2017, they have placed on record that a third party interest is created by not only allotting a portion of this land to the third party, but also putting him in possession of the land, who seems to be another project affected person. However, the petitioners claim that they are still in possession of the property. According to the third party, the petitioners have voluntarily handed over possession of the land. However, whether the petitioners continue to be in possession of the land or the third party is already in possession of the land is a disputed question of fact.

4. Be that as it may, the fact remains that in terms of section 11A of the Land Acquisition Act, 1894, the award had to be

passed within two years from the date of final notification under section 6 of the Land Acquisition Act i.e. 14th November, 1991. It is not in dispute that till today no award came to be passed so far as the above Gat number is concerned.

5. On the other hand, the Land Acquisition Officer (Land Acquisition No. 22) categorically admits that no award came to be passed after the final notification for the reasons mentioned in the additional affidavit, which came to be filed in the month of March, 2017. According to the Land Acquisition Officer, there were total 82 Gat numbers, which were meant for allotment of land to the project affected persons. Out of these 82 Gat numbers, only 34 Gat numbers were preferred by the project affected persons. Therefore, the rest of the Gat numbers could not be allotted since no one came forward to take the land in these Gat numbers. However, in the said 34 Gat numbers, the land in Gat No. 1432 was not included. Therefore, no award came to be passed so far as the said Gat number. Hence, neither award came to be passed nor compensation came to be paid in terms of section 31 of the Land Acquisition Act, 1894. Even prior to coming into force of the Act 30 of 2013, in terms of section 11A of the Land Acquisition Act, 1894, the acquisition proceedings have lapsed by operation of law since no award came to be passed within two

years from the date of publication of the final notification in the Gazette under section 6 of the Land Acquisition Act, 1894. After coming into force of the Act 30 of 2013, as on 1st January, 2014, if compensation is not paid, the result would be lapsing of the land acquisition proceedings. Similar would be the situation if possession of the land is also not taken. However, we are not expressing any opinion so far as the possession of the land is concerned since one of the event i.e. non-payment of compensation, also results in lapsing of proceedings. Strictly speaking, section 24 of the Act 30 of 2013 will not come into picture because no award came to passed under section 11A of the old Act. For applying consequences of section 24 of the Act 30 of 2013, the award must be 5 years' old as on 1st January, 2014. In that view of the matter, under section 11A of the Land Acquisition Act, 1894 itself, the acquisition proceedings have lapsed.

6. Even otherwise, at page 75 (additional affidavit of the Land Acquisition Officer), it is stated that the District Resettlement Officer has already made a proposal to acquire the land, including the land in Gat No. 1432 as per the provisions of the Act 30 of 2013.

7. In the above circumstances and for the reasons mentioned above, we declare that the land acquisition proceedings initiated under the Land Acquisition Act, 1894 have lapsed and it is left to the respondent authorities to take further steps strictly in accordance with the procedure contemplated and the said exercise has to be completed within a period of six months from today.

8. The writ petition is disposed of accordingly.

(N. M. JAMDAR, J.)

(CHIEF JUSTICE)