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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 4613 OF 2015

Mr. Anant Waman Tare and Anr. ... Petitioners.

V/s.

The Collector, Pune & Ors. ... Respondents.

Mr. A.Y. Sakhare, Senior Advocate i/b. Uday Nighot for the
Petitioners.

Mr. P.P. Kakade, AGP for the State.

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

DATE : JUNE 6, 2017.

P.C. :-

Rule. Rule made returnable forthwith. Taken up for
final disposal.

2. Short question that arises in this Petition is whether the
Petitioners are entitled to a declaration that the acquisition
proceedings in respect of land in question have lapsed in view of
provisions of Section 24(2) of the Right to For Compensation and
Transparency in Land Acquisition Rehabilitation and Resettlement
Act, 2013.

3. The Petition is filed in respect of Gat No. 125 admeasuring 1 Hectar 60 Ares and Gat No. 126 admeasuring 8.1 Ares situated at Village Deoghar, Taluka Maval, District Pune. The Petitioners purchased the said lands on 23 March 1995. On 28 May 1998, Respondent No.2 – the Special Land Acquisition Officer, Pune issued a notification under Section 4 of the Land Acquisition Act, 1894 for acquisition of the said lands. The notification under Section 6 of the Act of 1894 was issued on 28 October 1998. Award was passed on 19 February 1999.

4. Mr. Sakhare, learned Senior Advocate for the Petitioners submitted that Section 24(2) of the Act of 2013 is applicable as the award was passed on 19 December 1999 which is five years prior to 1 January 2014, that is the commencement of the Act of 2013. He submitted that neither the possession of the lands is taken from the Petitioners nor compensation has been paid. He further contended that in view of Section 24(2) of the Act of 2013, the land acquisition proceedings have lapsed. Reply affidavit has been filed by the Special Land Acquisition Officer wherein it is contended that the State Government has deposited the amount of compensation in Personal Ledger Account and that the concerned Talathi has carried out a panchnama and possession of the lands was taken on 31 March 2001.

5. Section 24 of the Act of 2013 reads thus :-

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases – (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894) -

(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this act relating to the determination of compensation shall apply; or

(b) where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section 91), in case of land acquisition proceedings initiated under the Land Acquisition Act, 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 landholdings 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.”

6. Three parameters are indicated in Section 24(2) of the Act of 2013. First, the award should be published five years prior to the date of commencement of the Act, which date is 1 January 2014. Second, the physical possession of the land is not taken. Third, the compensation is not paid. In the case of *Santosh Dnyaneshwar Aher v/s. State of Maharashtra Through its Secretary & Ors.*¹ Division Bench of this Court has taken a view that for applicability of Section 24(2) of the Act of 2013 it is enough that either of the above two contingencies exist. That is, physical possession of the land is not taken or compensation is not paid. This position is amply made clear by the Apex Court in the case of *Delhi Development Authority v/s. Sukhbir Singh and Ors.*²

7. The aspect of compensation as regards Section 24(2) of Act of 2013 has been dealt with by the Apex Court in the case of *Pune Municipal Corporation and Anr. v/s. Harakchand Misirimal Solanki and Ors.*³ and *Delhi Development Authority v/s. Sukhbir Singh and Ors.* The Apex Court analyzed the provisions of Section 24 of the Act of 2013 and Section 31 of the Act of 1894. The Apex

1. Writ Petition No. 3238 of 2014

2. AIR 2016 SCC 4275

3 204(4) Mh.L.J. 566

Court held that Section 31(2) of the Act of 1894, which envisages deposit of compensation in the Court, is a mandatory provision. The Apex Court construed the phrase “compensation has not been *paid*” occurring in Section 24(2) of the Act of 2013 as meaning that it is not paid as per Section 31(2) of the Act of 1894. The Apex Court has laid down that if the compensation is not paid as per Section 31(2) of the Act of 1894, then Section 24(2) of the Act of 2013 is attracted and consequences of lapsing of acquisition contemplated under Section 24(2) of the Act of 2013 will ensue. This dicta has been followed in subsequent decisions by the Apex Court and the Division Benches of this Court. It is not necessary to multiply references.

8. It is an admitted position as can be seen from the reply affidavit, that the State Government has deposited the amount of compensation in Personal Ledger Account. Copy of the relevant extract is annexed. That the deposit of amount of compensation in Personal Ledger Account not a compensation 'paid' as envisaged under Section 24(2) of the Act of 2013, is a settled position of law in view of the decision of the Apex Court in the case of *Pune Municipal Corporation and Anr. v/s. Harakchand Misirimal Solanki and Ors.*

9. Accordingly, the contention of the Petitioners that the acquisition proceedings in respect of the lands in question has lapsed

in view of Section 24 of the Act of 2013 will have to be upheld. Consequently, the Writ Petition is allowed. Rule is made absolute in terms of prayer clause (b). No order as to costs.

(N.M. JAMDAR, J.)

(CHIEF JUSTICE)