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

WRIT PETITION NO. 3814 OF 2015

Mr. Sunil Shankar Chaugule. ... Petitioner.

V/s.

The Collector, Kolhapur and Ors. ... Respondents.

Mr. Uday Nighot for the Petitioner.

Mr. A.P. Vanarase, Asstt. Govt. Pleader for the Respondent – State.
Mr. Akshay Shinde for Respondents 6 & 7.

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

DATE : JULY 11, 2017.

P.C. :-

The Petitioner claiming to be the owner of land out of Gat No. 1248 admeasuring about 11 Ares is before this Court. It is not in dispute that this land came to be acquired for the purpose of project affected persons by exercising powers under the Maharashtra Resettlement of Project Displaced Persons Act, 1976 and other subsequent enactments. Apparently, a notification under Section 4 of the Land Acquisition Act of 1894 came to be issued as early as 27.06.1991 by a publication followed by another notification under Section 6 of the Act of 1894 on 21.05.1992. It is also not in dispute

that notice under Section 5A of the Act of 1894 came to be issued and the Respondents contend that the Petitioner was absent for further enquiry.

2. Be that as it may, the fact remains that till date no Award came to be passed. In the reply affidavit, the Land Acquisition Officer No.12, Kolhapur himself says that since no Award came to be passed in terms of the enactment, the acquisition proceedings have lapsed.

3. With the coming into force of new Land Acquisition Act which is known as Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, Section 24 refers to initiation of proceedings under the Land Acquisition Act but no Award has been passed under the said enactment. We are of the opinion that Section 24 of the Act of 2013 has no application to the facts of the present case since by operation of law under Section 11A, if Award is not made within two years from the date of Notification under Section 6 of the Act of 1894, the acquisition proceedings lapses. In the present case, much prior to the present Act of 2013, such lapsing of acquisition proceedings had taken place. In that view of the matter, we are of the opinion that the land acquisition proceedings initiated so far as the land of the Petitioner, in the year 1991 or 1992 have lapsed.

4. We are not expressing any opinion on merits so far as the possession of the land is concerned. Though we are conscious that we had ordered maintenance of status-quo at the initial hearing of the Writ Petition, maintaining status-quo would not refer to any positive claim of the Petitioner or the Respondent being accepted or determined by us. Since the question of possession of land is a factual issue, we are of the opinion that we need not express any opinion on merits so far as the possession of the land in question.

5. However, the Land Acquisition Officer has stated in the reply affidavit that this land has been allotted to the party Respondent in June 2014 as a project affected person. Since the Act of 2013 has no relevance so far as the present case is concerned, whether the land has been allotted now or earlier will not be of any relevance. It is left to the concerned authorities to see whether the so called allotment of land is required to be taken to its logical end, they have to initiate fresh acquisition proceedings, otherwise they have to allot alternate land to the Respondent – project affected person.

6. With these observations, the Writ Petition is disposed of.

(N.M. JAMDAR, J.)

CHIEF JUSTICE