

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4860 OF 2014

Balaram Shanvar Malak and others. ... Petitioners.
V/s.
The State of Maharashtra and others. ... Respondents.

S.M.Gorwadkar, Senior Advocate with Sujay Gangal
for the petitioners.

PG.Sawant, AGP for the State.

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

DATE : 6th June 2017.

PC. :

The petitioners are before this Court challenging the acquisition proceedings on the ground that the same resulted in lapsing by virtue of section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013). Apparently, acquisition proceedings were initiated in the year 1963 by declaring notification under section 4 of the Land Acquisition Act, 1894 and an award under section 11 came to be passed on 21st October 1971. According to the petitioners, no

possession has been taken over after the award was passed but according to the respondents, possession of portions of lands was taken over by them.

2. Be that as it may, the fact remains whether the conditions not to proceed under section 24(2) of the Act of 2013 exist or not. Consequences of lapsing of land acquisition proceedings occurs if the possession of the land was not taken on or before 1st January 2014 or if the compensation is not paid in accordance with the provisions of the Act of 1894.

3. In the present case, apparently, paragraph-6 of the affidavit-in-reply filed by the respondents indicates that an amount of compensation of Rs.9,337.69 came to be deposited in the Revenue Deposit i.e. into the ledger account of the Land Acquisition Officer. The question is whether this could be considered as payment of compensation in terms of section 24(2) of the Act of 2013. A similar question arose before the Apex Court in the case of *Pune Municipal Corporation v. Harakchand Misirimal Solanki*, 2014 (4) Mh.L.J. 566; wherein Their Lordships of the Apex Court have clearly held that mere deposit of amount with the Land Acquisition Officer would not be equated with the payment of compensation to the land losers or the persons interested so far as land is concerned. Even if a notice is issued to the land losers of the land or the persons

interested calling upon them to receive the compensation amount and in case such land losers or the persons interested refuse to take money, then there is further obligation on the Land Acquisition Officer to proceed with the procedure contemplated under section 31 of the Act of 1894. From paragraph-12 onwards of the aforesaid judgment, Their Lordships have discussed the same and ultimately held that if the Land Acquisition Officer fails to comply with his obligation to deposit money, in terms of section 31 of the Act of 1894, in the Civil Court, it cannot amount to payment of compensation in order to consider the consequences of the acquisition in terms of section 24(2) of the Act of 2013.

4. In the present case, so far as lands described in paragraph- 9(b) of the writ petition are concerned, we have to opine that no compensation came to be paid in terms of section 31 of the Act of 1894 or otherwise.

5. In that view of the matter, writ petition is allowed. The acquisition proceedings in respect of lands bearing Survey Nos.41/1 to 41/1-B to 41/1-E, 47, 101/1/2, 83/2p and 48/2/2 and Survey Nos.43/2(P), 43/1 and 43/3 at village Chavindre, Taluka- Bhiwandi, District- Thane stand lapsed.

(N.M. JAMDAR, J.)

CHIEF JUSTICE