

nsc.

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

WRIT PETITION NO.12370 OF 2017

Babu Khandu Kad Since deceased through legal heirs Dagaddu Baburao Kad and Ors.	...Petitioners
Versus	
The Divisional Commissioner, Pune Division, Pune and Ors.	...Respondents

Mr.Yashavant Lengare, a/w Mr.Manoj Patil, for the Petitioners

Ms.M.P.Thakur, A.G.P for the Respondent-State

***CORAM : DR. MANJULA CHELLUR, C.J. &
M. S. SONAK, J.***

DATE : 15th NOVEMBER, 2017

P.C. :

1. Heard the learned counsel for the parties.
2. The land involved in the present case is Gat No.720 (part) admeasuring 0.40 Are situated at Village Kadachiwadi, Taluka Khed, District Pune. Apparently, the land came to be acquired for the purpose of allotment to the project affected persons of Bhama Askhed Irrigation Project. An Award came to be passed on 28th January, 2004. According to

the petitioners, though the possession of the land was taken on 29th November, 2005, by drawing panchanama and kabjepati, till date, compensation is not paid. According to the Special Land Acquisition Officer, the land is put in possession of project affected persons, which is categorically denied by the petitioners.

3. Be that as it may, the fact remains that in terms of sub-section 2 of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, in the event of non-payment of compensation, can lapse the proceedings of the land acquisition, provided the conditions required for the same are complied with. One of the condition is as on 1st January, 2014, when Act 30 of 2013 came into force, the Award must be 5 years or more than 5 years old. There are two circumstances in which the acquisition can lapse in terms of sub-section 2 of Section 24, one is non-payment of compensation and another is not taking possession of the land as on 1st January, 2014. In the event of non-compliance of any one of the conditions, the land acquisition proceedings gets lapsed. We are not expressing any opinion so far as 3rd party being in possession of land, since land acquisition proceedings gets

lapsed, even if, compensation is not paid on 1st January, 2014.

4. In that view of the matter, we declare that the land acquisition proceedings has lapsed in the present case. It is left to the respondent-authorities either to acquire the land in question, putting project affected persons in possession of the same or take any other recourse open to them to set things right. In case, they are not able to return the land to the petitioners, they shall initiate fresh acquisition proceedings and complete the process within a period of one year.

5. With these observations, the petition is disposed of.

M. S. SONAK, J.

CHIEF JUSTICE