

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5854 OF 2015

Shri Sakharam Govinda Kadam
(since deceased through legal heirs)
Shri Shamrao Sakharam Kadam
(since deceased through legal heirs)
Shri Aappaso Shamrao Kadam and others. ... Petitioners.
V/s.
State of Maharashtra and others. ... Respondents.

WITH
WRIT PETITION NO. 5855 OF 2015

Shri Laxman Krushna Nalawade and others. ... Petitioners.
V/s.
State of Maharashtra and others. ... Respondents.

WITH
WRIT PETITION NO. 5856 OF 2015

Shri Bapu Piraji Nalawade
(since deceased through legal heirs)
Shri Aanna Bapu Nalawade and others. ... Petitioners.
V/s.
State of Maharashtra and others. ... Respondents.

Dormaan Dalal for the petitioners.

PG.Sawant, AGP for the State.

**CORAM : DR.MANJULA CHELLUR, C.J.
AND G.S.KULKARNI, J.**

DATE : 2nd May 2017.

PC. :

The petitioners in these petitions are the owners of the lands of different Gat numbers which are said to have been acquired for Morna Gureghar Project. The proceeding for acquisition came to be initiated by issuing notification under section 4(1) of the Land Acquisition Act, 1894 on 3rd January 1998. Section 6 notification came to be issued on 5th June 1998. An award came to be passed in the month of February 2001.

2. According to the petitioners, the physical possession of the petitioners is not disturbed till date. In reply-affidavits, there is no categorical statement regarding taking over physical possession of the properties. The fact remains that even if possession of the property is taken, upon which we are not opining categorically, now there has to be compliance of payment of compensation and also handing over of physical possession of the property in order to go out of purview of provisions of sub-section (2) of section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("Act of 2013" for short) which has come in to force with effect from 1st January 2014.

3. There is a categorical statement by the concerned authority of the State in the affidavit-in-reply that compensation amount came to be deposited in the personal ledger account of the Land Acquisition Officer. In the light of observations of the Apex Court in *Pune Municipal Corporation v. Harakchand Misirimal Solanki* (2014) 3 SCC 183 and subsequently confirmed in the case of *Delhi Development Authority v. Sukhbir Singh and others*, AIR 2016 SC 4275 which are referred to in various earlier judgments of this Court, the deposit made in the personal ledger account of the Land Acquisition Officer cannot be equated with the payment of compensation to the owner of the land who has lost his land unless the amount is deposited in terms of section 31 of the Land Acquisition Act. Since no such deposit of amount came to be made under section 31 of the Land Acquisition Act, it has to be held that no compensation came to be paid till date. Though the award is more than five years old as on 1st January 2014, no compensation is paid as on 1st January 2014. In that view of the matter, the petitions deserve to be allowed.

In the result, all the petitions are allowed.

In case the possession is already taken over, the same shall be restored to the petitioners forthwith within a period of six months from today. If the possession is not taken over, then the respondent

authorities will not interfere with the possession of the petitioners.

It is needless to state that if the said lands are required by the respondent- authorities, they are at liberty to initiate fresh acquisition proceeding in terms of Act of 2013.

It is made clear that the above observations are only with regard to the parties to the present lis and it cannot be treated as general observations.

(G.S.KULKARNI, J.)

CHIEF JUSTICE