

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

WRIT PETITION NO.7331 OF 2015

Bharat Budhaji Patil

.. Petitioner

Versus

The Deputy Collector,
Land Acquisition, Metro Centre No.3,
Panvel & Ors.

.. Respondents

Mr.Rahul Thakur for the petitioner.

Mr.A.B. Vagyani, Govt. Pleader, a/w. Mr.P.G. Sawant, Asstt. Govt.
Pleader, for the respondent-State.

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

DATED : 27th JUNE, 2017

P.C. :

1. Heard learned counsel for the petitioner and learned Government Pleader for the respondent-State.

2. The issue pertains to land bearing survey No.200/2, situate at village Owe in Murbi Village of Panvel taluka. According to the petitioner, neither the land was taken into possession by the Land Acquisition Officer nor compensation was paid in accordance with the procedure contemplated.

3. Admitting the same, an affidavit came to be filed by the Land Acquisition Officer. In terms of paragraph Nos.4 and 5 of the

affidavit, the Land Acquisition Officer categorically submits that possession of the land was taken by the State Government; however, in general, what happens to the possession certificate or actual possession of the land is tried to be explained by the Land Acquisition Officer and, according to us, there shall not be such generalised statements unless the record speaks to that effect. Therefore, we will not place any reliance on the last sentence of paragraph No.4 of the affidavit.

4. Without even referring to factum of possession, since one of the ingredients of sub-section (2) of Section 24 exists in the present case, in the light of admission in paragraph No.5 of the affidavit, the acquisition of the land in question lapses, since no compensation is paid though the Award is more than five years old as on 1st January 2014.

5. Accordingly, we dispose of this Writ Petition by opining that the land acquisition lapses so far as the land in possession is concerned.

(N.M. JAMDAR, J)

(CHIEF JUSTICE)