

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 3258 OF 2015
with
Civil Application No.2394 of 2015

Nitin Babanrao Nakhate ...Petitioner
Versus
The State Of Maharashtra Through Its Secretary,
Dept. Of Revenue And Forest And Ors. ...Respondents

WITH
Writ Petition NO. 3259 OF 2015

Mr. Shriram Baburao Kokane ...Petitioner
Versus
The State Of Maharashtra Through Its Secretary,
Dept. Of Revenue And Forest And Ors. ...Respondents

Mr.Siddharth Ronghe, for the Petitioners.

Mr.P.P.Kakade, AGP for Respondent Nos.1 to 4.

Mr.Vijay Patil, for Respondent No.5.

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

DATE : MARCH 1, 2017

P. C.

1. The petitioners in both these petitions claim to be the owners of the land situated at village Rahatne, Taluka Haveli,

District Pune. These lands were subject matter of the acquisition for the public purpose of Pimpri Chinchwad Township Area for industrial, commercial and residential. A notification under Section 4(1) of the Land Acquisition Act, 1894 came to be issued on 9 March 1970. Thereafter Section 6 notification was issued on 8 February 1973. On 23 September 1986 an award came to be declared acquiring these lands. There is no dispute on these events.

2. The petitioners have averred that thereafter on 18 June 1990 a panchanama came to be made qua their lands, subject matter of the acquisition, however, the possession of the land was not taken over by the Respondents.

3. The petitioners contend that the acquisition of these lands has lapsed in view of the provision of sub-section 2 of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "2013 Act") for the reason that the possession of the land is not taken over by the respondents as also the amount of compensation has not been paid.

4. The Respondents-State has appeared as also filed a reply affidavit of the Deputy Collector (Land Acquisition). The beneficiary of the land acquisition namely Pimpri Chinchwad New Town Development Authority has also filed an affidavit of the Chief Executive Officer.

5. A perusal of the affidavit filed on behalf of the respondent no.5 clearly indicates that though respondent No.5 parted with the amount of compensation, by depositing the same with the Special Land Acquisition Officer, the fact remains that the amount was neither paid to the petitioners nor deposited by the Special Land Acquisition Officer in the Court as Section 31 of 1894 Act would provide.

6. In view of the above clear factual position that neither the compensation was paid to the petitioners nor the possession was taken over by the respondents, the provisions of Sub-section (2) of Section 24 of 2013 Act would become applicable and it can very well be concluded that the acquisition of the lands of the Petitioners by operation of law has lapsed.

7. We may usefully refer to the decision of this Bench in the case “***Santosh Dnyaneshwar Aher Vs. State of Maharashtra through its Secretary & Ors.***”¹ the facts in which are in proximity to the facts in this case, wherein referring to the law enunciated by the Apex Court in the case of “***Pune Municipal Corporation & Anr. Vs. Harakchand Misirimal Solanki & Ors.***”² and other decision we have held that the acquisition of land would lapse. The discussion on the legal aspects in the said decision is squarely applicable in the facts of this case.

¹ Writ Petition No.3238 of 2015, order dt.17 January 2017.

² 2014(3) SCC 183

8. Accordingly, we allow these petitions by declaring that the acquisition of the Petitioners' lands under the award dated 23 September 1986 has lapsed under Section 24(2) of 2013 Act.

9. Needless to observe that if the land in question is required and needed for a public purpose, then, as provided under Section 24(2) of 2013 Act, the Authorities may choose to initiate fresh acquisition proceedings under 2013 Act.

10. We however, clarify that the relief as granted by us would apply only to the petitioners' land and no other land.

11. The writ petitions are disposed of in the above terms.
No costs.

12. As writ petitions are disposed of, pending Civil application would not survive and stands disposed of.

(G.S.KULKARNI, J.)

(CHIEF JUSTICE)