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

WRIT PETITION NO.9358 OF 2017

Mansi Milind Dahiwalkar

Maiden Name

Dipali Ramesh Savardekar and Anr. ...Petitioners

Versus

The State of Maharashtra and Anr. ...Respondents

Mr.S.V.Pitre, for the Petitioners.

Mr.Vikas Mali, A.G.P for the Respondent-State

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

DATE : 8th NOVEMBER, 2017

P.C. :

1. The petitioners are claiming to be children of one Mr.Ramesh Lakshya Savardekar. They are before this Court. Apparently, land bearing Gat Nos.1693/2 and 2579/2, which was held in the joint names of several persons, including Mr.Ramesh Savardekar, came to be acquired by the concerned Authority at Ratnagiri. An award is passed in the name of all of the owners shown in the 7/12 extracts, which are at page nos.11 and 12,

including Mr.Ramesh Savardekar.

2. According to the petitioners, the amount of compensation payable to their father is about Rs.10 lakhs. They claim that they are the only legal heirs of Mr.Ramesh Savardekar, since their mother-Surekha Ramesh Savardekar died in an accident about 2 years back.

3. So far as existence of Mr.Ramesh Savardekar, there is no legal declaration that he is not alive. Since the missing complaint was given only in the year 2015, there cannot be a declaration, presuming that Mr.Ramesh Savardekar is dead, till 2022. If a person is not heard of for a period of 7 years, then alone there can be a declaration that the said person is presumed to be dead. Till such declaration is taken, whatever the legal heirs of such person could get after his death, may not have the benefit as on today. In all probability, after 2022, if Mr.Ramesh Savardekar is not traced and if there is a legal declaration to the effect that there is a presumption of death of Mr.Ramesh Savardekar, his legal heirs will be entitled to the benefit flowing from the death of the said person. In that view of the matter, at present the amount payable as compensation to said Mr.Ramesh

Savardekar cannot be allowed to be paid to his children, even if they are ready to execute any indemnity bond. We do not even know that the father of the petitioners intended to give the said money to his children or not, if he was to be alive or he was to be available as on today.

4. In that view of the matter, we make it clear that the petitioners cannot seek such direction either from this Court or from the Authority who is liable to pay the compensation. At the most, we can direct the said Authority to deposit the said compensation amount in an interest earning Fixed Deposit in the name of Mr.Ramesh Savardekar, till he is traced or till he is declared as dead, in accordance with law.

5. In the light of the above observations, we decline to grant permission sought in the writ petition, however, we direct respondent No.2- Competent Authority and Special Land Acquisition Officer to deposit the amount of compensation and all other amounts payable to said Mr.Ramesh Savardekar in an interest earning Fixed Deposit in the name of Mr.Ramesh Savardekar, in any Nationalized or Scheduled Bank.

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

M. S. SONAK, J.

CHIEF JUSTICE