

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9728 OF 2015

Shri Gorakshnath Bhaguji Khandagale. ... Petitioner.
V/s.
The State of Maharashtra and others. ... Respondents.

PK.Hoshing i/b. A.M.Joshi for the petitioner.

Mrs.M.P.Thakur, AGP for the State.

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

DATE : 29th March 2017.

PC. :

The petitioner is before this Court on two counts. One is that the notice of acquisition under the Maharashtra Resettlement of Project Displaced Persons Act, 1976 (“Act of 1976” for short) was issued against a dead person, though there was mutation change made in the 7/12 extract way back in December 1983. The other ground is that the land in question being excess land, the owner of the land ought to get back the land since the provisions of the Act provide for the same. What we notice is, the Government of Maharashtra made a declaration under section 11(1) of the Act of

1976 on 7th February 1979. Subsequently, in 1984 section 4(1) notification came to be issued and, as per the synopsis furnished by the petitioner, one of the brothers of the petitioner had even filed reply before the concerned authority. Subsequently, notice under section 16 of the Act of 1976 came to be issued. The award came to be passed on 31st March 1990.

2. So far as compensation amount is concerned, way back in 1990 compensation amount of Rs.31,128/- has been awarded and the said compensation amount is also received as per the impugned order. Subsequently, in the year 1997, the petitioner approached this Court by filing Writ Petition No.5881/1997 which came before the Division Bench and the same was dismissed on the ground of delay and laches. In that view of the matter, whatever grounds the petitioner had till then all came to an end since this Court on the ground of delay and laches did not entertain said petition.

3. Subsequently, the petitioner approached the State Government under section 48(1) of the Land Acquisition Act, 1894 and the same came to be rejected in 2014 which is being impugned in the present writ petition.

4. If the ground of excess land was available in the year 1997 and if it was raised or even it it was not raised, the very fact

that the earlier petition was dismissed on the ground of delay and laches and the petitioner did not take it to further logical end comes in our way to decide the controversy now raised that the land was in excess in terms of the Act of 1976.

5. So far as section 48(1) of the Land Acquisition Act is concerned, the land is already acquired after the award was passed and the same is put to use, therefore, considering of controversy under section 48(1) in favour of the petitioner would not arise in the light of the above events which we have narrated above, that too, after receiving compensation by the children of the so-called deceased owner. Viewed from any angle, we are of the opinion that the issues now raised are stale and devoid of any merits.

Accordingly, the petition is dismissed.

(G.S.KULKARNI, J.)

CHIEF JUSTICE