

Hayachand Babasaheb Desai	}	Petitioner
versus		
State of Maharashtra	}	
and Ors.	}	Respondents

Mr. P. G. Sawant-AGP for State.

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

DATE :- AUGUST 9, 2017

P.C. :-

1. The petitioner is before this court complaining lapse of acquisition proceedings in the light of sub-section (2) of section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the Act 30 of 2013”). Apparently, the land of the petitioner came to be acquired by way of a declaration in the year 2004. According to the respondent authority, total compensation in respect of three Gat numbers was about Rs.8,51,613/- and a notice under section 12(2) of the Land Acquisition Act, 1894 dated 14th January, 2009 was issued to the owner/interested persons. However, they did not come forward

to collect the compensation amount. The Land Acquisition Officer did not take the matter beyond that stage in terms of law i.e. section 31 of the Land Acquisition Act, 1894. This is an admitted fact. If the amount of compensation is deposited in the Personal Ledger Account, it cannot be treated as compliance of section 31 of the Land Acquisition Act, 1894, since separate procedure is contemplated under the Land Acquisition Act, 1894 as to how the amount has to be deposited if any owner/interested person refuses to accept the amount. This is so far as one of the relevant factors for lapsing of acquisition proceedings in terms of sub-section (2) of section 24 of the Act 30 of 2013. The relevant date is 1st January, 2014.

2. Then, coming to the other criteria, upon which acquisition proceeding lapses, i.e. not taking possession of the land, one has to consider the same with reference to the date of coming into force the new Act of 2013 i.e. 1st January, 2014. Apparently, as on 1st January, 2014, the Land Acquisition Officer concerned could not have taken possession of the land since an order of status quo was in force in terms of order dated 12th February, 2013 in Writ Petition No. 364 of 2013. Till the disposal of the representation under section 48 of the Act, possession had to be continued with the owner or persons interested in the land.

Apparently, the representation came to be disposed of on 4th January, 2014 i.e. beyond 1st January, 2014. Therefore, the condition of not taking possession as on 1st January, 2014 may not be of much assistance to the petitioner in this case.

3. So far as the other condition of not paying compensation amount as on 1st January, 2014 in terms of section 31 of the Land Acquisition Act, 1894, the consequence is lapsing of acquisition proceedings if such compensation is not deposited in terms of section 31 of the Land Acquisition Act, 1894. Apparently, in this case, the compensation amount was not deposited before 1st January, 2014. Hence, the consequence of lapsing has to follow.

4. Accordingly, the writ petition is allowed and the land acquisition proceedings in respect of the lands in question are held as lapsed.

(N. M. JAMDAR, J.)

(CHIEF JUSTICE)