

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9891 OF 2015

Shri Narayan Rambhau Shinde & Ors.] ... Petitioners

Versus

The Special Land Acquisition Officer No.22]
& Ors.] ... Respondents

Mr. P. B. Shah i/b Mr. Kayval Shah for Petitioners.
Mrs. M. P. Thakur, AGP for State.

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

DATE :- JANUARY 23, 2017

P. C. :-

1. The petitioners claim to be the owners of property in Gat No.69 (old Gat No.73) admeasuring 10 H. 47 R. situated at Village - Nere, Taluka - Mulshi, District - Pune. This land was the subject-matter of acquisition in the year 1989. A notice under Section 4 of the Land Acquisition Act, 1894 ('the Act') dated 25 September 1989 came to be published in the Maharashtra Government Gazette dated 12 October 1989. The amendment to the aforesaid notification under Section 4 (1) of the Act came to be issued on 21 March 1990 which was published in Government Gazette dated 5 April 1990. A notification under Section 6 (1) of the Act came to be issued on 27/10/1990 and the Award came to be passed on 31 October 1992.

2. The case of the petitioners is that despite the Award having been passed in 1992, the amount of compensation is so far not received and / or paid to the petitioners. The contention is that in view of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which came into force on 1 January 2014, the acquisition would lapse for non-payment of compensation.

3. The State (Respondent Nos.1 to 3) has filed a reply affidavit wherein they admit the fact that the compensation payable to the petitioners under the Award dated 31 October 1992 is kept in the treasury in a special account as deposited on 13 February 1993 but the same is not paid to the petitioners.

4. It is, therefore, clear that the amount of compensation was not paid to the petitioners. Mere deposit of the amount in the treasury would not amount to payment of compensation, as held by the Supreme Court in the case of ***Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki and Ors***¹. This decision has also been followed by the Division Bench of this Court in the case of ***Kaluram Maruti Dange Vs. Special Land Acquisition Officer No.24, Pune and Ors***² and also by this Bench in the case of ***Santosh Dnyaneshwar Aher Vs. State of Maharashtra and Ors***³.

1 AIR 2014 SC 982

2 Appellate Side Civil Writ Petition No.6695 of 2014, Judgment and Order dated 16/17th July, 2015

3 Civil Writ Petition No.3239 of 2015, decided on January 17, 2017

5. In the light of the above clear position, we do not have any hesitation but to allow this Writ Petition.

6. Accordingly, the Writ Petition is allowed in terms of prayer clause (a) which reads thus :-

“(a) by appropriate writ, order of direction this Hon'ble Court be pleased to declare that the acquisition proceedings pursuant to the Final Award No.ViBhuS/22/SR/58/91 dated 31/10/1992 in respect of subject land being land admeasuring 9 H. 65 R. out of total area of 10 H. 47 R. of Gat No.69 (Old Gat No.73) situated at village Nere, Taluka Mulshi, Dist. Pune have lapsed in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;”

7. There shall be no order as to costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)