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

WRIT PETITION NO.11997 OF 2016

Rajgonda Bhimgonda Patil and Anr.	...Petitioners
Versus	
The State of Maharashtra and Ors.	...Respondents

**WITH
CIVIL APPLICATION NO.3080 OF 2016
(For Intervention)
IN
WRIT PETITION NO.11997 OF 2016**

Dhanashri Jivandhar Ankalkhope and Ors.	...Applicants
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IN THE MATTER BETWEEN

Rajgonda Bhimgonda Patil and Anr.	...Petitioners
Versus	
The State of Maharashtra and Ors.	...Respondents

**WITH
CIVIL APPLICATION NO.3129 OF 2016
(For Intervention)
IN
WRIT PETITION NO.11997 OF 2016**

Antu Babu Bardeskar	
Since deceased through his legal heir:	
Rosalin Antu Bardeskar	
Since deceased through his legal heir:	
Fatima Motes Lobo	...Applicant

IN THE MATTER BETWEEN

Rajgonda Bhimgonda Patil and Anr. ...Petitioners
Versus
The State of Maharashtra and Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.568 OF 2017
(For Intervention)
IN
WRIT PETITION NO.11997 OF 2016**

Rony Jocky D'souza and Ors. ...Applicants

IN THE MATTER BETWEEN

Rajgonda Bhimgonda Patil and Anr. ...Petitioners
Versus
The State of Maharashtra and Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.2066 OF 2017
(For Intervention)
IN
WRIT PETITION NO.11997 OF 2016**

Pravin Pandurang Kalbar and Ors. ...Applicants

IN THE MATTER BETWEEN

Rajgonda Bhimgonda Patil and Anr. ...Petitioners
Versus
The State of Maharashtra and Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.2067 OF 2017
(For Intervention)
IN
WRIT PETITION NO.11997 OF 2016**

Ramesh Dayaldas Tanwani and Ors.

...Applicants

IN THE MATTER BETWEEN

Rajgonda Bhimgonda Patil and Anr.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

**WITH
CIVIL APPLICATION NO.2585 OF 2017
(For Intervention)
IN
WRIT PETITION NO.11997 OF 2016**

Laxman Babaji Kesarkar

Since deceased through his legal heir :

Vasant Laxman Kesarkar

Since deceased through his legal heir :

Suhas Vasant Kesarkar

...Applicant

IN THE MATTER BETWEEN

Rajgonda Bhimgonda Patil and Anr.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

Mr.R.A.Thorat, Senior Advocate, a/w Mr.Pandit Kasar, for the Petitioners

Mr.Vijay Patil i/b Mr.Manoj Patil for the Applicants in CAW/2066/2017 and CAW/2067/2017.

Mr.P.D.Dalvi a/w Mr.Kedar Lad, for the Applicants in CAW/568/2017 and CAW/2585/2017.

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

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

DATE : 15th NOVEMBER, 2017

P.C. :

1. The subject matter involved in this writ petition is Gat No.175 admeasuring 6H 41R, situated at Mouje Uchagaon, Taluka - Karveer, District - Kolhapur. The admitted facts are that on 19th November, 1988, the Special Land Acquisition Officer No.12 made an Award in respect of the above stated land under the Land Acquisition Act of 1894. It is noticed that subsequent to passing of the Award, Regular Civil Suit No.382 of 1996 came to be filed in the Court of the Civil Judge, Senior Division, Kolhapur and the Civil Judge, Senior Division, Kolhapur disposed of Order 39, Rules 1 and 2 CPC Application restraining the Defendant Nos.1 to 4 including the Land Acquisition Officer from taking possession of the property or disturbing the possession of the property held by the plaintiffs, unless they complete due process contemplated under the Land Acquisition Act. Two stages of land acquisition proceedings were pending when Award came to be passed on 19th November, 1988. When the interim application for temporary injunction came to be disposed of on 27th

October, 1999, the above-stated 2 stages of land acquisition proceedings were still pending. Apart from taking possession in terms of the order of the Civil Judge, Senior Division, Kolhapur, the only requirement to take possession of the land from the plaintiffs was to pay compensation amount. Apparently, the said compensation amount was not paid. On the other hand, the office seems to have initiated proceedings to take the possession of the land, which compelled the plaintiffs to file Contempt Petition, alleging violation of directions of the Court. Even if the Contempt Petition was filed, nothing prevented the respondent-authorities to pay compensation with leave of the Court, since the status-quo order was passed. In all probability the said status-quo order would refer to taking the possession of the property and nothing else, especially it is not in respect of payment of compensation. Therefore, the issue of balance compliance of land acquisition proceedings i.e. payment of compensation was not complied with before taking possession of the land.

2. When things stood as stated above, in place of Land Acquisition Act, 1894, Act of 2013 has come into effect from 1st January, 2014. With the above said enactment coming into force from 1st January,

2014, the entire scenario with regard to the land acquisition proceedings, if the Award was 5 years or more than 5 years old as on 1st January, 2014 or if the possession of the property is not taken as on 1st January, 2014, would change i.e. land acquisition proceedings would lapse. It is so, in either of the situation. In the facts placed before us, there was no impediment for payment of compensation from 19th November, 1988 onwards. Temporary injunction order is passed on 27th October, 1999. 11 years after passing of the Award, there is no explanation, why compensation was not paid for 11 years. Even after temporary injunction order dated 27th October, 1999, there was no attempt on the part of the officer concerned to pay the compensation. Automatically, by virtue of operation of law, in terms of sub-section 2 of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, the land acquisition proceedings lapses.

3. In that view of the matter, though we are precluded from saying that land acquisition proceedings would lapse for not taking possession of the land on account of the restraint made by the Civil Court, the land acquisition proceedings would lapse for non-payment of

compensation. Therefore, we declare that the land acquisition proceedings in the present case in respect of the above stated land, stands lapsed.

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

5. In view of disposal of the petition, all Civil Applications stand disposed of.

M. S. SONAK, J.

CHIEF JUSTICE