

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.166 OF 2017

Jalinder Dattu Mali.] ... Petitioner

Versus

Divisional Commissioner, Pune Division,]
Pune District, Pune & Ors.] ... Respondents

Mr. Dipak S. Shinde for Petitioner.
Mr. P. P. Kakade, AGP for State.

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

DATE :- JANUARY 17, 2017

P. C. :-

1. The petitioner is seeking the relief of quashing and setting aside the land acquisition proceedings initiated under Section 4 (1) and 6 (1) of the Land Acquisition Act, 1894 ('the Act'). What we notice from the record is that ad-interim relief was granted in 2009. An Award came to be passed in the year 2010 and even compensation amount is deposited, as per the admission of the petitioner. However, the petitioner says that he has not withdrawn the said amount till date. However, he is in possession of the land till date. According to him, apart from himself and his wife, they have two sons. By virtue of acquisition of part of the total area of 3 Hectares and odd land, the

family would be deprived of substantial portion of the land and would not be able to make their living with the balance land. Even otherwise, they are still in possession of the land and the land has not vested with the Government in terms of Section 16 of the Act, as per the earlier submission made by the learned Counsel for the petitioner. In that view of the matter, in the light of the provisions of Sections 16 and 48 of the Act, if the land has not vested with the Government or taken possession of or free from encumbrances, the petitioner has to approach the concerned authority under Section 48 of the Act for withdrawal of the land from acquisition proceedings.

2. With these observations, we dispose of the petition.
3. All other contentions are kept open.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)