

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10725 OF 2013

Shri Suryakant Ramchandra Girme and others.... Petitioners.

V/s.

The State of Maharashtra and others. ... Respondents.

WITH

WRIT PETITION NO. 4996 OF 2014

Shri Rajendra Dattatraya Borawake and others.... Petitioners.

V/s.

The State of Maharashtra and others. ... Respondents.

None for the petitioners.

PP.Kakade, AGP for the State.

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

DATE : 13th February 2017.

PC. :

The petitioners before this Court are contending that after publication of notification under section 4(1) of the Land Acquisition of Act, 1894, without passing an award and without following the procedure contemplated under section 5A of the Land Acquisition Act, the respondent authorities were trying to forcibly

excavate soil from the land being Gat No.25 admeasuring 3.52 hectares for widening of Hadapsar-Saswad Belsar Road (State Highway No.64).

2. In response to the writ petition, on 24th April 2014, the Special Land Acquisition Officer and Deputy Collector filed reply-affidavit wherein he refers only to the issuance of section 4(1) notification and nothing else. By the time the reply-affidavit came to be filed, the new Act being Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("Act of 2013" for short) was already in force from 1st January 2014. By operation of law, if the acquisition proceedings were initiated under the Land Acquisition Act, 1894 where no award is passed under section 11 thereof, the assessment/ determination of compensation has to be made in terms of the new Act i.e. the Act of 2013. Apparently, as on today from the reply-affidavit that is filed in the month of April 2014, it is clear that no award seems to have been passed.

3. Under these circumstances, we direct the respondent authorities to strictly adhere to the procedure contemplated under the Act of 2013 and proceed with the matter. With this direction, both the petitions are disposed of.

(G.S.KULKARNI, J.)

CHIEF JUSTICE