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

WRIT PETITION NO. 11592 OF 2014

Mr. Sampatrao Jyoti Pawar and Ors. ... Petitioners.

V/s.

Ld. Divisional Commissioner @
Chief Controlling Officer (Rehabilitation)
Pune Division at Pune & Ors. ... Respondents.

Mr. Manoj Patil, for the Petitioners.
Mr. S.S. Bhende, Asstt. Govt. Pleader for Respondents 1 to 3.

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

DATE : JUNE 21, 2017.

P.C. :-

Rule. Rule made returnable forthwith. Taken up for final disposal.

2. Heard the learned Counsel for the parties.

3. By this Writ Petition, the following reliefs have been sought :-

“(a) This Hon'ble Court be pleased to issue appropriate Writ, Order and or Direction and be pleased to call for

the record and proceedings of the Award dated 2.9.2002, issued by the Ld. Deputy Collector [S.L.A.O.No. 4] at Satara bearing No. L.A. 4/S.R./594, from the file of Respondent No.3, and after going through the legality and propriety thereof further be pleased to quash and set aside the Award dated 2.9.2002, [which is annexed at Exhibit A to the Petition] issued by the Ld. District Rehabilitation Officer [S.L.A.O. No.4] in respect of the Petitioners land admeasuring 74 R, from Gat No. 561, situated at Chachegaon, Tal.: Karad, Dist. Satara, in the interest of justice.

(b) This Hon'ble Court be pleased to issue appropriate Writ, Order and or Direction and be pleased to declare that the Acquisition Proceedings/Award dated 2.9.2002, in respect of the Petitioners land admeasuring 74 R, from Gat No. 561, situated at Chachegaon, Tal. Karad, Dist. Satara, stands lapsed as per Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No.30 of 2013)."

4. The Petition questions the acquisition of lands whose details specified in the Petition. A notification under Section 4 of the Land Acquisition Act of 1894 was issued on 6 January 2000. Declaration under Section 6 of the Act of 1894 was published on 10 August 2000. The Award was passed on 2 September 2002.

5. The present Writ Petition was filed invoking the provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement

Act, 2013 for declaration that the acquisition proceedings in respect of the lands in question have lapsed.

6. Since the claim is based under Section 24 of the Act of 2013, it is necessary to reproduce the said provision, which reads as follows :-

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases – (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894) -

(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this act relating to the determination of compensation shall apply; or

(b) where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section 91), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act;

Provided that where an award has been made and compensation in respect of a majority of landholdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

7. Three parameters are indicated in Section 24(2) of the Act of 2013. First, the award should be published five years prior to the date of commencement of the Act, which date is 1 January 2014. Second, the physical possession of the land is not taken. Third, the compensation is not paid.

8. It is not necessary to dwell further in view of the clear stand taken by the Respondent – State. An affidavit has been filed on 17 June 2017 by Dhanaji Kisanrao Patil, Deputy Collector, Land Acquisition No.4, Satara, wherein after setting out the dates, he has stated as under :-

“4. I say that though final award was made on 2.9.2002, neither the possession of land in question was taken by the Competent Authority nor the compensation was paid to the Petitioner No.1. I say that the compensation amount payable to the Petitioner No.1 has been deposited in the Personal Ledger Account of Petitioner No.1.

In view of the above facts it is true that acquisition proceedings have lapsed.”

9. In view of the above stand of the State, the Writ Petition deserves to be allowed and it is accordingly allowed. It is declared that the acquisition proceedings in respect of the lands which are the subject matter of the present Writ petition have lapsed. Rule is made absolute in above terms. No order as to costs.

(N.M. JAMDAR, J.)

(CHIEF JUSTICE)