

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1518 OF 2016

1. Shri Shaffi Usman Shaikh,	]	
2. Shri Ibrahim Usman Shaikh.	]	... Petitioners

Versus

1. State of Maharashtra,	]	
through Revenue and Public Works	]	
Departments, Mantralaya, Mumbai,	]	
2. The Collector of Palghar District, at Palghar,	]	
3. Vasai Virar Mahanagarpalika.	]	... Respondents

Mr. A. J. Almeida for Petitioners.
Mrs. M. P. Thakur, AGP for State.

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

DATE :- 21 APRIL 2017

P. C. :-

1. Petitioners claim to be the legal heirs of the original owner of the land admeasuring about 0.6.32 Gunthas bearing Survey No.29A/1, Hissa No.12 of Village Virar, Taluka Vasai, District Palghar. This land was the subject-matter of acquisition, being acquired for the purpose of road. The petitioners have filed this petition seeking a direction to the respondents to pay compensation to the petitioners for taking over and/or utilizing the said land by the respondents.

2. As seen from the averments made in the petition, the land in question was acquired in the year 1979. The case of the petitioners is that the petitioners, however, came to know about the acquisition for the first time in the year 2005, after which they made various representations to the respondents seeking payment of compensation. Petitioners' representation dated 07/08/2006 was forwarded for inquiry to the District Collector of Thane, the representation dated 30/06/2008 was forwarded to the Additional Chief Secretary, Revenue and Forest Department and the representation dated 31/12/2008 was forwarded to the Principal Secretary, Revenue and Forest Department. The petitioner also made an application under the Right to Information Act and have learnt that Corporation has subsequently utilized the land for the purpose of road.

3. We have perused the averments in the petition. The averments lack details of the acquisition and more particularly of the various proceedings which were undertaken to acquire the land in question. The case of the petitioners is that though the acquisition was of 1979, at the relevant time, it was their father who was concerned with the land and that they have learnt about acquisition in the year 2005. On the above background, the petitioners have made the prayers for payment of compensation.

4. Considering the prayer as made in the petition, the first issue which we would be required to address is the delay on the part of the petitioners to assert the rights under the land acquisition and

make the prayer demanding compensation. The prayers are simplicitor for a money claim, that is, payment of compensation and that too after a substantial period of about 38 years from the acquisition. Surely, the claim of the petitioners being a delayed claim, would not justify any interference in the jurisdiction of this Court under Article 226 of the Constitution of India. The petitioners, however, have averred that the petitioners are the legal heirs of the original owner and suffer from physical disability, as also are illiterate. Even if that would be the case, it would be difficult for us to entertain this petition which suffers from such gross delay. However, in the interest of justice, we dispose of this petition with a direction to the respondents to treat this petition as a representation and decide the same on the basis of records and documents which are available with the respondents. A decision be taken in accordance with law within a period of six months from today.

5. It is clarified that we have not expressed any opinion on the merits of the matter as we have not entertained the petition on merits of the prayers sought for.

6. Writ Petition is disposed of in the above terms.

7. There shall be no order as to costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)