

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8735 OF 2014

**PRABHAKAR KACHRU @ BHIVSEN HIWALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. D.A. Bide, Advocate for the petitioner
Mrs. M.A. Deshpande, AGP for the respondent/State.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 03.09.2018

P.C. :-

Mr.Bide, learned counsel appearing for the petitioner submits that the land held by the father of the petitioner was acquired and the possession was taken by the respondents in the year 1977. The petitioner is paid compensation of Rs.34,760/-. The said amount was paid from time to time. The learned counsel submits that the land had a house so also 6000 Mosambi trees, 6 Mango trees and a well. No compensation is received for the house, Mosambi trees, Mango trees and the well. The learned counsel submits that the father of the petitioner and thereafter the petitioner from time to time were making representations with the authorities. The authorities have also accepted the fact that the award has not been passed and the Special Land Acquisition Officer communicated to the father of the petitioner, on 25.08.1984 that 17 Mango trees, 6,000 Mosambi trees alongwith the pipeline and the house have been acquired. The petitioner is paid advance compensation of Rs.34,760/- and it was represented by

respondent that the work of passing final award is in progress. The same was repeatedly communicated to the petitioner on various dates. On an application filed by the petitioner, the authority only gave the copy of the award without e-statement. The copy of the award and e-statement produced by the respondent/State in the present matter is erroneous. According to the learned counsel, the petitioner is deprived of the legitimate amount of compensation for his house, fruit bearing trees and the well.

2. The learned AGP submits that the petitioner had earlier filed Writ Petition bearing No.2635 of 2005 for the similar relief. The Writ Petition was withdrawn by the petitioner and thereafter again on the same grounds present Writ Petition is filed. The same is not tenable. The learned AGP submits that the award in respect of the land acquired of the petitioner has been passed in the year 1977 bearing Award No.42 of 1975. The e-statement attached to the award is also placed on record, which clearly shows the amount of compensation determined in respect of the land of the petitioner. According to the learned AGP the petitioner suppressed the fact of the award that has been passed in respect of his land. The learned AGP submits that the letter dated 25.08.1984 relied by the petitioner is not found in the record of the respondent. The petitioner's father is already paid the compensation amount of the acquired land.

3. We have considered the submissions. It is a matter of record that the petitioner had earlier filed

Writ Petition No.2635 of 2005 claiming compensation for his land acquired and was also seeking direction to the respondent to pass the award of the acquired land of the petitioner. The petitioner at the time of hearing the matter withdrew the Writ petition. The order in Writ Petition No.2635 of 2005 reads thus:-

"i] N.R. Jamdhade learned counsel for the petitioner seeks permission to withdrawn the writ petition. Permission granted.

ii) The writ petition is disposed as withdrawn."

4. Perusal of the order in Writ Petition No.2635 of 2005, it is manifest that while withdrawing the writ petition no liberty has been granted by this Court. The withdrawal of the petition without liberty tantamounts to dismissal of the petition.

5. Even otherwise it is a matter of record that the award in respect of the acquired land of the petitioner has been passed in the year 1976 bearing No. 42 of 75, in which name of the father of the petitioner appears in the e-statement, wherein the compensation amount is determined. It is not disputed that the petitioner has received an amount of Rs.34,760/- as compensation for the acquired land.

6. In case the petitioner was aggrieved by the non-grant of compensation for his alleged house or the trees, then petitioner certainly could have filed a reference under section 18 of the Land Acquisition Act claiming compensation. The earlier Writ Petition is also

dismissed as withdrawn. The forum available for the petitioner was to file reference under section 18 of the Land Acquisition Act, more particularly when the award is passed in the year 1976.

7. It is too late in the day for this Court to accept the contentions of the learned counsel for the petitioner that the award of his acquired property has not been passed.

8. Considering the above no case for interference is made out.

9. Writ Petition as such is disposed of. No costs.

[S.M.GAVHANE, J.]

[S.V. GANGAPURWALA, J.]