

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10768 OF 2016

Gitabai Rangnath Harale and others.. **Petitioners**

Versus

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

Mr. Dhananjay P. Deshpande, Advocate for the Petitioners.

Mr. S. B. Joshi, A.G.P. for Respondent Nos. 1 to 3.

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

DATE: 10th October, 2018

PER COURT :

1. The petitioners seek directions for setting aside the award dated 06.09.1983 and the Mutation Entry No. 1602 referring to Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to 'Act - 2013').

2. Mr. Deshpande, learned counsel for the petitioners submits that the petitioners are the owners and possessors of land bearing Gut No. 436 situated at Ghatangri, Taluka - Osmanabad. Abruptly, Mutation Entry No. 1602 has been recorded in the name of the State. According to

the learned counsel, the original owner was Shivaji Panda Harale. The petitioners are his legal heirs. In the consolidation proceeding the said land is allotted to the petitioners in the year – 1985. The award is drawn in the name of Shivaji Panda Harale, in the year – 1983. According to the learned counsel, the amount of compensation is not deposited by the State nor possession of the land has been taken by the respondent – State. In view of that, Section 24 (2) of the Act – 2013 squarely applies.

3. Mr. Joshi, learned Assistant Government Pleader submits that it is because of the dispute *inter se* between the parties, amount of compensation is not paid nor deposited and the possession could not be taken.

4. The Civil Court in its judgment and decree dated 04.05.2016 in R.C.S. No. 690 of 2014, has declared the present petitioners as the owners and possessors of the writ land, so also, have restrained the respondent – authorities from interfering in their possession without due process of law.

5. It is unequivocally admitted by the respondent – State that the respondent – State has

not paid the amount of compensation either to the Shivaji Panda Harale or to the petitioners nor they have deposited the amount in any Court or treasury. It is also admitted by the respondent – State that the possession of the land still vests with the petitioners.

6. In the light of aforesaid facts, Section 24 (2) of the Act – 2013 would apply, and the award dated 06.09.1983 shall stand lapsed. As the award dated 06.09.1983 is declared to have been lapsed, naturally the authorities maintaining the revenue record shall take effective entry of the same.

7. Writ Petition accordingly stands disposed of.
No costs.

[S. M. GAVHANE, J.] [S. V. GANGAPURWALA, J.]

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