

psv

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

**CIVIL APPLICATION NO.859 OF 2018
IN
WRIT PETITION NO.9195 OF 2014**

Shri Pramod Pandurang Patwardhan

...Applicant/Petitioner

Vs.

The State of Maharashtra & Ors.

...Respondents

Mr.D.B. Lonkar for Petitioner/Applicant.

None for Respondents.

**CORAM : NARESH H. PATIL AND
G.S. KULKARNI, JJ.**

DATE : 13th JUNE 2018

P.C.:

Heard. Perused the record.

2. By this civil application, applicant/petitioner is seeking modification/rectification in the order dated 2nd May 2015 passed in the Writ Petition.

3. In the order dated 2nd May 2015, wherever the figure 'Gat No.622/1' appears, it should be replaced with 'Gat No.662/1' and delete all the survey numbers from the order.

4. The order dated 2nd May 2015 now reads as under:-

“1. In terms of our earlier directions, today the respondents-authorities have placed a detailed affidavit. The petitioner persistently submitted before this Court that the compensation was paid in respect of Gat No.662/2 and the compensation was not paid in respect of Gat No.662/1. By an affidavit-in-reply, it is made clear that so far as Gat No.662/1 though a gazette notification is made under Section 6 of the Land Acquisition Act, 1894 on 6 July 1972 followed by an Award dated 29 September 1986, the name of the petitioner though was shown as the owner of the land in terms of 7/12 extract, was never notified and it was one Rangnath Mundhe who was declared or notified as the owner of 81 ares in respect of the land bearing Gat No.662/1. If the petitioner being the owner as on the date of initiation of the proceedings, we fail to understand how the land acquisition proceedings culminated into an award in the year 1986 can be valid. So far as this Gat No.662/1 is concerned, the land acquisition proceedings resulting into an award in the year 1986 would become non est in the eye of law.

2. The fact remains that already possession of the land was taken over from the petitioner in the year 1991 and it has to be held that no land acquisition proceedings were initiated till date so far as the petitioner is concerned.

3. In that view of the matter, the concerned

authority has to initiate the land acquisition proceedings in terms of the law applicable as on today. Since the possession of the land was taken away from the petitioner resulting in depriving him of making use of the land admeasuring 81 ares from 1991, he has to be compensated for the land admeasuring 81 ares annually by justifiable amount which could be called as 'Rent', from the year 1991 till they initiate the proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In respect of the acquisition, they have to determine the compensation in terms of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. Accordingly, the petition is disposed of.”

4. A copy of draft correction tendered by the learned Counsel for the petitioner is taken on record and marked “X” for identification.

5. Registry to take necessary steps

6. Civil Application stands disposed of accordingly.

[G.S. KULKARNI, J.]

[NARESH H. PATIL, J.]