

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

WRIT PETITION NO.11397 OF 2017

Shri Mahadeo Rambhau Masalkar since deceased through LRs'. versus The Divisional Commissioner Pune & Ors.	...Petitioners ...Respondents ...
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Mr. Yashwant Lengare i/b. Mrs. S. Y. Lengare for the Petitioners.
Mrs. M. P. Thakur, AGP for the Respondents.

**CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATE : 24th JANUARY, 2018.

P. C. :

1. Heard the learned counsel appearing for the respective parties. The petition is filed claiming lapsing of acquisition under Section 24(2) of the (The Right to Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013). On behalf of the Respondent, Shama Sushilkumar Pawar, Deputy Collector (Land Acquisition No. 22) Collector Office, Pune, has filed an affidavit dated 4th December 2017. Paras 3, 4, 5 and 6 of the affidavit read thus :

3. *I say that, this Respondent No. 5 has issued notices to the land owners including the Petitioner u/s 12(2) of the Land Acquisition Act, 1894. This notice has been duly served to the Petitioner. Hereto annexed and marked as Exhibit 'B' is the copy showing acknowledgement of these notices.*
4. *I say that, when the Respondent authorities went on the site to take possession of this land, the landowners*

willingly handed over possession of the land in Gat No. 178 admeasuring 6 R, land in Gat No. 264 admeasuring 2 Hectare 46 R and land in Gat No. 233 admeasuring 3 Hectares. Hereto annexed and marked at Exhibit 'C' is a copy of the possession receipt.

5. *I say that payment of compensation for land in Gat No. 178 admeasuring 6 R, land in Gat No. 264 admeasuring 2 Hectare 46 R and land admeasuring 3 Hectares in Gat No. 233 has been received by the Petitioner himself Shri Mahadeo Rambhau Masalkar without any protest. Hereto annexed and marked as Exhibit 'D' is the copy of the relevant record. I say that the Petitioner did not file any application under Section 18 of the Land Acquisition Act 1894 for determination of rate of compensation by the Court.*
6. *I say that the payment of compensation is duly paid to the Petitioner. I say that and the possession of the said land has already been taken and handed over to District Resettlement Officer. I say that land acquired in Gat No 264 admeasuring 2 Hectare 46 Ares and land in Gat No. 233 admeasuring 3 Hectares has been allotted to the Project Affected Persons. These Project Affected Persons have not been made party to the Petition.*

2. The petitioner has not controverted these statements by filing a rejoinder. It is thus clear that the petitioner has not only lost possession of the land in acquisition but has also accepted the compensation. Under the circumstances, Section 24 (2) of the said Act has no application. Hence the Petition has no merits and the same is accordingly dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]