

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

WRIT PETITION NO.4240 OF 2016

Pandurang Tukaram Amate & Anr. ...Petitioners
Versus
The State of Maharashtra & Ors. ...Respondents

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Mr. R.S. Apte, Senior Advocate I/b. Mr. R.S. Kulkarni for the
Petitioners.

Mr. P.G. Sawant, AGP for the Respondent No.1-State.

Mr. P.D. Dalvi for the Respondent Nos.5 and 6.

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

DATED: 13th FEBRUARY, 2018.

P.C.:-

Heard Mr. R.S. Apte, the learned senior counsel for the
Petitioners, Mr. Dalvi, learned counsel for the Respondent Nos.5 and 6
and Mr. Sawant, the learned AGP for the Respondent -State.

2. The Petition is filed under Article 226 of the Constitution of
India seeking declaration that acquisition proceedings in respect of the
subject land belonging to the Petitioners has lapsed under Section 24
(2) of the Right to Fair Compensation and Transparency in Land
Acquisition, Rehabilitation and Resettlement Act, 2013.

3. Albeit, there is no dispute between the parties that the

Petitioners' land is acquired by passing award on 20.2.1991. Shri Apte, the learned senior counsel for the Petitioners' submits that neither possession of the said land has been taken nor the compensation has been paid to the Petitioners. He further contends that the Petitioners continue to be in physical possession of the subject land and hence the acquisition proceedings stand lapsed by virtue of Section 24(2) of the new Land Acquisition Act, 2013.

4. One Avinash Ramrao Hadgal, Deputy Collector (Land Acquisition) No.12, Kolhapur, has filed affidavit dated 22nd January, 2018. He has made following averments in paragraph Nos.3, 4 and 5:-

“3. I say that it is true that Petitioner's father was the Owner of the said land. It is also true that the Notifications under Section 4 of Land Acquisition Act, 1894 was published and issued on 30.11.1989. I say that an enquiry under Section 5A of Land Acquisition Act, 1894 was conducted on 30.12.1989. I say that on 04.01.1990 the Petitioner's father has submitted his no objection to acquire the land situated on Gat No.448 Part 1 H.61 R. I say that the said no objection submitted by the Petitioner's father is annexed at Page No.24 of the Petition. I say that Notification under Section 6 was published in the Government Gazette on 26.7.1990 and the same was published in Village Chavadi on 13.08.1990 which is annexed to EXHIBIT-E to the Petition. I say that the Final Award of the said Land was declared on 20.02.1991.

4. I say that the Final Award vide LQN/Karnoor/SR/65/89 including the said land was declared on dated 20/02/1991 and an amount of

Rs.25,680/- was fixed. I state that inspite of issuance of notice under Section 12(2) of Land Acquisition Act, 1894 to the owner/interested persons, they have not come forward to collect the compensation. Therefore, the amount of compensation due to the Petitioner, was deposited in the "Revenue Deposit" (RD). I say that the present Petition is filed in the court under the provisions of Section 24(2) of the 2013, Act, on the ground that they are not paid compensation.

5. I say that the advance possession of the said land was taken by Kabjepatti-Panchanama and the name of the Collector and Deputy Director, Project Resettlement (Land) Kolhapur vide Mutation Entry No.871. I further say that the said land is allotted to the Project Affected Persons."

5. A perusal of the above averments reveal that the land was acquired from Petitioners' father after following proper procedure. Thereafter notice was issued under Section 12 (2) of the Land Acquisition Act asking Petitioners' father /Petitioner to collect the compensation amount. However, none came forward to collect the compensation and therefore, the compensation amount was deposited in the Revenue Deposit (RD). The averments also show that the possession was taken under *Kabje Patti panchanama* and mutation entry No.871 is effected. Copy of which is annexed at page 19 and thereafter subject land was allotted to the Respondent Nos.5 and 6.

6. In the light of above facts and especially in the light of

decision of the Apex Court in *Indore Development Authority Vs. Shailendra (dead) through L.Rs. in Civil Appeal No.20982 of 2017* we do not agree with the Petitioners that acquisition proceedings are lapsed.

7. In the above facts and circumstances, we do not find merits in the Petition. The Petition is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)