

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.7159 OF 2014**

Mr. Shivnarayan Shivram Bhoir And Ors. .. Petitioners

V/s.

Chief Engineer M.I.D.C. And Ors. .. Respondents

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Mr. Shriram S. Kulkarni, for the Petitioners.

Smt. Madhubala Kajle, 'B' Panel Counsel for Respondent Nos. 3, 4 and 6.

Mr. Pranav Thakur, i/b. Little & Co., for Respondent MIDC, Respondent Nos. 1 and 2.

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**CORAM: A.A. SAYED &
S.C. GUPTA, JJ.**

DATE : 7 SEPTEMBER, 2018.

P.C.:

. The Petitioners seek to quash and set aside the acquisition in respect of the subject lands and to pay compensation after acquiring the said lands under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. According to the Petitioners, no award is passed and no compensation is paid in respect of the acquisition though the acquisition took place in the year 1967.

2. It is an admitted position that the final Notification under Section 32(1) of the Maharashtra Industrial Development Act, 1961 (MID Act) was issued on 9 March 1964. As per Section 32(4) of the MID Act,

upon publication of the Notification, the notified lands 'vest' absolutely in the State Government. The subject lands have thus vested in the State Government since 9 March 1964. Possession of the subject lands have been taken in 1963, 1964 and 1972 and the lands have been utilised for development of Trance Thane Creek Industrial Area and the name of the Respondent Corporation has been mutated in the revenue records.

3. In our view, the Petition suffers from gross delay and laches. The Petitioners have approached this Court after about 5 decades. According to the Petitioners they are the heirs of late Smt. Sakharibai Bhoir who was the owner of the subject lands at the relevant time. It appears that said Smt. Sakharibai Bhoir during her life time did not challenge the acquisition nor made any grievance about non-receipt of compensation. Learned Counsel for the State Government informs us that most of the records in respect of land acquisition are now not traceable. It is averred in the Petition that Petitioner No.2 had made an application for payment of compensation on 31-03-1993 and that in the year 2011 some unauthorised constructions of commercial and residential building have come up on the said lands. The present Petition is however filed in the year 2014. There is no explanation at all in the Petition for the delay.

4. In **State of Maharashtra vs. Digambar**¹, a Bench of three Honourable Judges of the Supreme Court in paragraphs 14 and 23 held as under :

“14. How a person who alleges against the State of deprivation of his legal right, can get relief of compensation from the State by

¹(1995) 4 SCC 683

invoking writ jurisdiction of the High Court under [Article 226](#) of the Constitution even though, he is guilty of laches or undue delay is difficult to comprehend, when it is well settled by decisions of this Court that no person, be he a citizen or otherwise, is entitled to obtain the equitable relief under [Article 226](#) of the Constitution if his conduct is blame-worthy because of laches, undue delay, acquiescence, waiver and the like. Moreover, how a citizen claiming discretionary relief under [Article 226](#) of the Constitution against a State, could be relieved of his obligation to establish his unblameworthy conduct for getting such relief, where the State against which relief is sought is a welfare State, is also difficult to comprehend. Where the relief sought under [Article 226](#) of the Constitution by a person against the welfare State is founded on its alleged illegal or wrongful executive action, the need to explain laches or undue delay on his part to obtain such relief, should, if anything, be more stringent than in other cases, for the reason that the State due to laches or undue delay on the part of the person seeking relief, may not be able to show that the executive action complained of was legal or correct for want of records pertaining to the action or for the officers who were responsible for such action not being available later on. Further, where granting of relief is claimed against the State on alleged unwarranted executive action, is bound to result in loss to the public exchequer of the State or in damage to other public interest, the High Court before granting such relief is required to satisfy itself that the delay or laches on the part of a citizen or any other

person in approaching for relief under [Article 226](#) of the Constitution on the alleged violation of his legal right, was wholly justified in the facts and circumstances, instead of ignoring the same or leniently considering it. Thus, in our view, persons seeking relief against the State under [Article 226](#) of the Constitution, be they citizens or otherwise, cannot get discretionary relief obtainable thereunder unless they fully satisfy the High Court that the facts and circumstances of the case clearly justified the laches or undue delay on their part in approaching the Court for grant of such discretionary relief. Therefore, where a High Court grants relief to a citizen or any other person under [Article 226](#) of the Constitution against any person including the State without considering his blame-worthy conduct, such as laches or undue delay, acquiescence or waiver, the relief so granted becomes unsustainable even if the relief was granted in respect of alleged deprivation of his legal right by the State.

23. Therefore, where a High Court in exercise of its power vested under [Article 226](#) of the Constitution issues a direction, order or writ for granting relief to a person including a citizen without considering his disentitlement for such relief due to his blame-worthy conduct of undue delay or laches in claiming the same, such a direction, order or writ becomes unsustainable as that not made judiciously and reasonably in exercise of its sound judicial discretion, but as that made arbitrarily.”

5. For the aforesaid reasons, we refrain from exercising the extraordinary writ jurisdiction of this Court in entertaining the Writ Petition. The Writ Petition is dismissed in limine only on the ground of delay and laches. No costs.

(S.C. GUPTE,J.)

(A.A. SAYED,J.)