

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

WRIT PETITION NO.13259 OF 2017

Prataprao Narayanrao Deshmukh &
Ors.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

.....

Mr. S.R. Borulkar i/b. Mr. Manoj Patil for the Petitioners.

Mrs. M.P. Thakur, AGP for the Respondent No.1 to 4.

Mr. R.V. Govilkar i/b. M/s. Govilkar and Associates for the Respondent No.5.

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

DATED: 5th JANUARY, 2018.

P.C.:-

The Petitioners have sought the following reliefs:

“ (a) Rule be issued and record and proceedings be called for.

(b) This Hon'ble Court be pleased to issue appropriate Writ, Order and or Direction and be pleased to declare that the Award dt.30/12/1949, in respect of land from Gat No.52 [area admeasuring 6 Acre 16 R], from Gat No.53[area admeasuring 19 Acre] and from Gat No.54[area admeasuring 14 Acre 17 R] i.e. in total 39 Acre 33 R situated at Mouje Govardhan, Tal.: & Dist.: Nashik, stands lapsed as per provision of Sec.24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(c) This Hon'ble Court be pleased to issue appropriate Writ, Order and or Direction and direct the Respondents

No.1 to 4 [State Authorities] to determine and pay compensation for acquiring the land from Gat No.52 [area admeasuring 6 Acre 16 R], from Gat No.53[area admeasuring 19 Acre] and from Gat No.54[area admeasuring 14 Acre 17 R] i.e. in total 39 Acre 33 R situated at Mouje Govardhan, Tal.: & Dist.: Nashik, by award dt.30/12/1949, by Gangapur Project Revenue Officer, as per provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(d) This Hon'ble Court be pleased to issue appropriate Writ, Order and or Direction and direct the Respondents Nos.1 to 4 [State Authorities] to pay damages of Rs.40 Crores [40,00,00,000] or any amount as this Hon'ble Court deems fit and proper for nonpayment of compensation for a period 68 years, towards mental agony and for illegal deprivation in getting the legal dues against acquisition proceedings/Award dt.30/12/1949 by the State Authorities.”

2. Heard Mr. Borulkar, the learned counsel for the Petitioners, Mrs. M.P. Thakur, learned AGP for the Respondent Nos.1 to 4 and Mr. R.V. Govilkar for the Respondent No.5.

3. The Petitioners claim that their predecessor in title was the owner and possessor of Gut Nos.52, 53 and 54 total admeasuring 39 Acres, 33 gunthas situated at Mouje-Govardhan, Taluka and District-Nashik. Admittedly, this property was acquired in the year 1949 under the provision of old Land Acquisition Act. The Petitioners had filed a Writ Petition No.2045 of 1993 for return of the said land. The claim

was made on the ground that the subject property was not utilised for the purpose for which it was acquired. The said Petition was dismissed by the Division Bench of this Court by the judgment and order dated 22nd September, 2004. In paragraph 2 of the said order the Division Bench has observed that it is an admitted position that subject property was acquired by the State Government for Gangapur Dam Project and compensation was duly paid to the Petitioners' deceased father.

4. The Petitioners thereafter filed a Review Petition No.6 of 2009 seeking review of the judgment and order dated 22nd September, 2004 passed in the Writ Petition No.2045 of 1993. This Review Petition was also dismissed by another Division Bench of this Court by order dated 14.3.2013. Paragraph 7 of the said order reveals that the Petitioners had claimed that they had not accepted that the compensation was paid to their predecessor and had urged that the observation in paragraph 2 of the Judgment that it was an admitted position that compensation was paid to the Petitioners' father was erroneous. The Petitioners had therefore sought to review the said observations alleging that it was an error on the face of the records. While dealing with the said submission, in paragraph 9 of the order, the Division of this Court observed that the alternative prayer in the

said writ petition for payment of compensation was not pressed into service. After considering the averments in the writ petition, the Division Bench observed that there was no categorical averment that their Predecessor Narayan Rao had not received the compensation. It was observed that in a Review Petition filed in the year 2009 the State Government was not expected to produce records to show that the Petitioners' father had received the compensation in the year 1950. It was further observed that the Extract of Register of acquired land, annexed to the affidavit of Vaishali Maruti Mali, Incharge of Special Land Acquisition Officer shows that the compensation in respect of the acquired land was paid to the Petitioners' father and that specific amounts are mentioned against each land in the said register. The Division Bench therefore, held that there was no error apparent on the face of records and hence rejected the prayer to review the observations made in paragraph 2 of the judgment and order dated 22/9/2004.

5. The Petitioners thereafter challenged the order dated 14/3/2013 passed by the Division Bench in the Review Petition before the Apex Court by filing SLP. It is not in dispute that the Apex Court has dismissed the said SLP. The order of the Division Bench has

therefore, attained finality.

6. In the present Petition, the Petitioner has raised the same issue viz. non payment of compensation in respect of the acquired land to their Predecessor. The said issue having been already agitated and finally adjudicated, the Petitioners cannot reagitate the same by filing a separate Petition.

7. In the above circumstances, the Petition has no merits and is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)