

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7635 OF 2018

KANTABAI BHAUSAHEB KUBER
AND OTHERS

...PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS

...RESPONDENTS

Mr. R.B. Singare and Mr. V.D. Salunke, Advocates for Petitioners
Mr. V.M. Kagne, AGP for Respondent Nos. 1 to 3

**CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 17th OCTOBER, 2019

ORAL ORDER:

1. Mr. Salunke, the learned Counsel for the petitioners submits that notification under section 4 of the Land Acquisition Act, 1894 was issued on 31st January, 2006. The declaration under section 6 of the said Act was issued on 30th March, 2007 and 2nd August, 2007, and notification under section 9 was issued on 30th July, 2008. The award has been passed after introduction of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on 23rd July, 2016. The learned Counsel submits that the award under the 1894 Act ought to have been passed within two years from the date of declaration

under section 6 of the Act. As the award was not passed within the two years from the date of declaration under section 6, the acquisition proceedings stands lapsed. According to the learned Counsel, under the new Act, the acquisition proceedings ought to have been initiated and the compensation ought to have been computed as per the new Act.

2. Mr. Kagne, the learned Assistant Government Pleader submits that the petitioners have earlier filed the writ petition bearing No.7843 of 2015. Under order dated 2nd May, 2016, the writ petition was disposed of wherein the statement of the learned Assistant Government Pleader was accepted that the land would be acquired as per the provisions of the Land Acquisition Act, 1894 and as per the new Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in making the payment, compensation will be assessed as per the provisions of new Act.

3. The learned Counsel submits that the compensation is assessed as per the provisions of the new Act.

4. The aforesaid about the date of notification and the date of declaration under the provisions of Land Acquisition Act are not disputed. The last declaration under section 6 of the Land Acquisition Act was issued on 2nd August, 2007. The award is required to be passed within a period of two years from the date of

declaration under section 6. Admittedly, the award is not passed even on the date of the commencement of the new Act, the acquisition proceedings stood lapsed. The acquisition proceedings ought to have been initiated under the new Act. We have under our judgment and order dated 25th April, 2019 in writ petition No. 14088 of 2018 considered the similar aspect.

5. The Division Bench of this Court in case of ***Abuli Abdul Husain Vora, Daudi-Vora and Anr. Vs. Union territory of Dadra and Nagar Haveli and Ors.*** reported in ***2019 (1) Mh. L.J. 366***, has observed that the valuation ought to be as on the date of commencement of the new Act.

6. In light of the above, the impugned award is quashed and set aside.

7. The respondents shall pass the award under the new Act considering the valuation of the acquired land as on the date of commencement of the Act, 2013 as is held by Division Bench of this Court.

8. The writ petition is accordingly partly allowed. No costs.

[ANIL S.KILOR]
JUDGE

[S.V.GANGAPURWALA]
JUDGE

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