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

**WRIT PETITION NO. 1238 OF 2018**

Shankar Annu Patil .. Petitioner  
Vs.  
The State of Maharashtra & Ors. .. Respondents

Mr. Tejpal Ingale a/w. Mr. Nikhil Pawar for the Petitioner.  
Mr. R. S. Pawar, AGP for the Respondents-State.

**CORAM : R. M. BORDE & V. L. ACHLIYA, JJ.**  
**DATE : 16<sup>th</sup> JANUARY, 2019.**

**ORAL JUDGMENT** (Per R. M. Borde, J.)

1. Heard. Rule. Rule made returnable with consent of the parties. The Petition is taken up for final disposal at the admission stage.
2. The lands belonging to the Petitioner have been taken over by the Respondents for resettlement of project affected persons. It is the contention of the Petitioner that initially some area to the extent of 42 R out of Gat No. 74 was offered for acquisition. The Respondents-State in observance of referred under the law have declared an award and determined the amount of compensation in respect of the land under acquisition belonging to the Petitioner i.e. land out of Gat No.74 of village Kavathesar, Taluka-Shirol, District-Kolhapur. The acquisition proceeding, which culminated in award, was a matter of challenge at the instance of the Petitioner, in Writ Petition No. 3655 of 1988 presented to this Court. There were other Petitions presented by different claimants raising

challenge to same award. The group of Writ Petitions bearing No. 3089 of 1988 along with other companion matters presented by claimants covered by same award as in case of Petitioner herein was decided on 02.04.1996 and the award declared by the State has been quashed and set aside. On the basis of a Judgment delivered in Writ Petition No.3089 of 1988, the Petition presented by the Petitioner bearing Writ Petition No.3655 of 1988 was also disposed of on 28.06.1996 and the same was allowed. The proceeding for acquisition including notification under Section 4 of the Act, declaration under Section 6 as well as notice of award under Section 12(2) of the Land Acquisition Act has been declared as illegal and the same has been quashed and set aside. Thus, in law there was no award determining the amount of compensation payable in respect of land Gat No.76. The Petitioner voluntarily handed over the possession of area to the extent of 42 R out of land Gat No. 198 belonging to him on 18.06.1994. It was communicated to the Petitioner that the amount of compensation in respect of area handed over by him would be determined at subsequent stage. Though the possession of the alternate land out of land Gat No. 198 to the extent of 42 R has been taken over, the amount of compensation has not been determined by the State nor the same has been paid to the Petitioner. The Petitioner is, thus, praying for issuance of directions to the Respondent-State to initiate land acquisition proceeding in respect of land Gat No. 198 to the extent of 42 R situated at village Kavathesar, Taluka-Shirol, District-Kolhapur and to determine the amount

of compensation and pay the same to the Petitioner.

3. An Affidavit of Reply has been presented by the Deputy Collector, (Land Acquisition) No. 12, Kolhapur on behalf of Respondent Nos.1, 2 & 4. It is stated in the Affidavit-in-Reply that the acquisition process regarding Gat No. 76 was completed in the year 1987 and the Petitioner has sought relief in the instant Petition in respect of Gat No. 198 which is different land altogether. It is further stated that the acquisition process in respect of land Gat No. 198 was not initiated at any point of time. Though the amount of compensation was decided in respect of land Gat No. 76, the proceedings of acquisition initiated in respect of the aforesaid land have been quashed and set aside by the High Court while dealing with Writ Petition No. 3655 of 1998. It is not a matter of dispute that the Petitioner has offered alternate land out of Gat No. 198 and the possession of the said land to the extent of 42 R have been taken over by the Respondent-State long back. Although it was assured to the Petitioner that the amount of compensation to be paid would be communicated, it was never determined. The Petitioner is, thus, justified in claiming the amount of compensation for the land taken in possession by Respondents and amount of compensation has been admittedly not paid to him. In the circumstances, the request made by the Petitioner in the instant Petition deserve to be accepted. The Respondents are directed to initiate land acquisition proceeding in respect of land Gat No. 198 situated at village Kavathesar, Taluka-Shirol, District-Kolhapur area to the extent of 42 R and

determine the amount of compensation and pay the same to the Petitioner. Since the possession of the said land has already been taken over by the Respondent-State, the Respondents are required to determine the amount of compensation by declaring the Award and the initial process prescribed under the Act of 2013 till the stage of Section 19 of the Act shall stand dispensed with. The Respondents are at liberty to negotiate with the Petitioner as regards the amount of land value and may enter into an agreement with him. In the event of failure to reach an agreement, it would be open for the Respondents to determine the amount of compensation in observance of procedure prescribed under the law and to pay the amount to the Petitioner. The process of determination of amount of compensation and payment to the Petitioner shall be completed within a period of one year from today.

4. Rule is made absolute to the extent as specified above. There shall be no order as to costs.

**[V. L. ACHLIYA, J.]**

**[R. M. BORDE, J.]**