

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

**WRIT PETITION NO.1954 OF 2017**

Dattaram Shridhar Bhosale

...Petitioner

*Versus*

State of Maharashtra & ors.

...Respondents

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Mr.Charles Desouza a/w. Ms.Mithila Damble i/b. Mr.Gandhar Ulhas Raikar for the petitioner.

Mr.A.P. Vanarse, AGP for State/respondent nos.1 to 3 & 5.

Mr.G.S. Hegde a/w Mr.C. M. Lokesh i/b. A.R. Bhole & Co, for respondent no.4.  
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**CORAM : R.M. BORDE AND**

**PUSHPA V. GANEDIWALA, JJ.**

**DATE : 27<sup>th</sup> FEBRUARY 2019.**

**P.C. :**

1. The petitioner is objecting to the land acquisition proceedings, and is praying for declaration that the acquisition proceedings in respect of the land in question under LAQ No.717 have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

2. It is un-controverted fact that the property ad-measuring 22 R belonging to one Eknath Sakharam Shrikhande was purchased by

petitioner under a sale deed registered on 19<sup>th</sup> December 1995. It is not a matter of dispute that the said property has been acquired during subsistence of title in favour of original owner, and the award in observance of procedure prescribed under the Land Acquisition Act, 1894 has been declared on 15<sup>th</sup> June, 1973 prior to purchase of land by petitioner. The petitioner after lapse of about 46 years is objecting to the award on the ground that his predecessor-in-title has not received the amount of compensation and the possession of the property was not delivered. The question of fact as to whether the predecessor-in-title of the petitioner has received or has not received the amount of compensation, is not required to be gone into in exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India. There is nothing on record to indicate that the predecessor-in-title of the petitioner has not received the amount of compensation. So far as the possession of the property is concerned, if the contention of the respondents that the property has already been utilized for work of road widening and while continuing the work of road widening, it was not brought to notice by concerned agency or acquiring body or the State that the petitioner was in possession nor any resistance was put by the petitioner for continuation of work of road widening undertaken by the MMRDA. The petitioner is calling upon this Court to adjudicate disputed question of facts as to whether the predecessor-in-title of the petitioner had received the amount of compensation at the relevant time in the year 1973 or whether the predecessor-in-title of the petitioner had parted with possession after the declaration of the award which was passed about 46 years prior to presentation of the instant petition. Another thing that is required to be noted is that

after the declaration of award under the provisions of Land Acquisition of Act, 1894, the subject property vested in the State Government and the predecessor-in-title of the petitioner did not have any entitlement to alienate the said property in the year 1995 in favour of the petitioner. The sale deed that is executed by the predecessor-in-title of the petitioner in respect of the property which was already acquired shall have to be branded as *void ab initio*. The reliance placed by petitioner on the judgment in the matter of ***Mr. Balaram Kukaji Kumbhar and anr. Vs. The State of Maharashtra & ors.***<sup>1</sup> and judgment of the Supreme Court in the case of ***Govt. of NCT of Delhi Vs. Manav Dharam Trust and anr.***<sup>2</sup> is misplaced since facts giving rise to determination of issues both Courts are different and ratio laid down therein is inapplicable to this case.

3. For the reasons recorded as above, the petition deserves to be dismissed, and same is accordingly dismissed.

[PUSHPA V. GANEDIWALA, J.]

[R.M. BORDE, J.]

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<sup>1</sup> Writ Petition no.1955 of 2014 on 12<sup>th</sup> July, 2017

<sup>2</sup> reported in 2017 SCC Online SC 532.