

Amk

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

WRIT PETITION NO. 13903 OF 2017

Shri Dinkar Kashinath Chawat (deceased)
Through his legal heirs & Ors. .. Petitioners
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. R. S. Kadam for the Petitioners.
Mrs. P. N. Diwan, AGP for Respondent No.1-State.

CORAM : R. M. BORDE & V. L. ACHLIYA, JJ.
DATE : 31st JANUARY, 2019.

P. C. :

1. By this Petition, filed under Articles 226 and 227 of the Constitution of India, the Petitioners have prayed to quash and set aside the acquisition proceeding of the land acquired out of Survey No. 32 of village Loni-Kalbhor on the ground that the notice of acquisition was not served upon the Petitioners.

2. In brief, it is the contention of the Petitioners that on 21.03.1958 their ancestors had mutually partitioned the lands owned and possessed by them. By virtue of said partition, the land in question came to the share of the Petitioners. But no notice of acquisition of said land was issued to Petitioners. The notice of acquisition of said land was issued to Shri Ramrao Ganpati Chavat, the cousin brother of the Petitioners. According to Petitioners, the acquisition proceeding initiated and the Award passed therein on 10.03.1976 is vitiated in law and liable to be quashed and set

aside.

3. We are of the considered opinion that the Petition deserves no consideration for the sole reason, the Petitioners have filed the present Petition after a period of more than 4 decades the land was acquired by Respondent No.1. Notification under Section 4 of the Land Acquisition Act in respect of said land was issued on 13.04.1971. Notification under Section 6 of the Land Acquisition Act was issued on 20.12.1973. The Award in question came to be declared on 10.03.1976. The possession of the land acquired was taken and handed over to acquiring body way back in the year 1980 and allotted to allottee. It appears from the record that the land which was allotted to Respondent No.2 sold the same to Respondent No.3. The Petitioners have no personal knowledge about the acquisition proceeding as well as partition alleged to be made in the year 1958. The copy of the registered partition deed was not produced in spite of specific direction given to Petitioners. It is apparent from the face of the record that the Petitioners were not born, when the land was acquired by Respondent No.1. There is no justification to entertain the Petition after more than 40 years of acquisition of land by Respondent No.1. In that view, the Petition deserves to be dismissed on the ground of unexplained delay and latches on the part of Petitioners. Accordingly, the Petition is dismissed with no orders as to costs.

[V. L. ACHLIYA, J.]

[R. M. BORDE, J.]