

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

WTIT PETITION NO. 14755 OF 2018

Baban Yashwant Lokhande
Since deceased through legal heirs. ...Petitioners

vs.

The State of Maharashtra and ors. ...Respondents.

**WITH
WRIT PETITION NO. 14473 OF 2018**

Bhiku Nivrutti Shinde & Anr. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO. 14474 OF 2018**

Shankar Shivram Lokhande & Anr. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO. 14475 OF 2018**

Shantaram Sopan Lokhande ... Petitioner

V/s.

The State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO. 14476 OF 2018**

Dattatray Sopan Lokhande ... Petitioner

V/s.

The State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO. 14478 OF 2018**

Kisan Sopan Lokhande ... Petitioner

V/s.

The State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO. 14752 OF 2018**

Vasant Pandhrinath Lokhande & Anr. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO. 14753 OF 2018**

Sudam Baburao Lokhande deceased through LRS. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO. 14754 OF 2018**

Tukaram Bhika Tupe & Anr. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr.Sachin Deokar for the Petitioner in W.P. No. 14755/2018.
Mr. Gaurav Potnis i/b Ms. Pallavi Potnis for the Petitioners in W.P.
No.14473/2018, W.P. No.14474/2018, W.P.No.14475/2018, W.P.No.
14476/2018, W.P.No.14478/2018, W.P. No.14752/2018, W.P.
No.14753/2018 and W.P. No.14754/2018..
Smt. Madhubala Kajale, B Panel AGP.for the State.

**CORAM : R.M. BORDE AND V.L. ACHLIYA, JJ.
DATE : 17th JANUARY 2019.**

JUDGMENT : (Per R. M. Borde, J.)

1. Heard learned counsel appearing for the parties.
2. Rule. Rule made returnable forthwith by consent of the parties.
3. The agriculture lands belonging to the petitioners were the subject matter of acquisition for rehabilitation of project affected persons of Bhama Askhed Project. The Award under Section 11 of the Land Acquisition Act, 1894 has been declared on 30.5.2004 in observance of the procedure prescribed by the Land Acquisition Act of 1894. It is the contention of the petitioners that though the Award is declared in the year 2004 the amount of compensation determined by the Land Acquisition Officer has not been paid nor the possession of the lands in question has been taken either by the acquiring body or the State Government. Learned counsel appearing for the petitioners has invited our attention to Para 20 of the Award wherein it has been recorded that the advance possession of the lands under acquisition has not been taken over. It is also evident from the communication annexed to the petition addressed to the Dy. Collector (Land Acquisition) No.26 to the Executive Engineer, Bhama Asakhed Dam Project on 14.7.2015 calling upon the concerned authority to deposit the

amount of compensation. In view of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 since the land acquisition Award under Section 11 has been made five years or more prior to the commencement of the Act of 2013 neither the amount of compensation has been paid nor physical possession of the property has been taken over, the proceedings of Award shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is therefore declared that, the proceedings of land acquisition initiated under the Act of 1894 which has culminated into passing of the Award on 30.5.2004 shall be deemed to have lapsed and it would be open for the appropriate Government if it so chooses to initiate the proceedings for acquisition of the of the subject land afresh in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. Rule is accordingly made absolute.

5. There shall be no order as to costs.

(V.L. ACHLIYA, J.)

(R.M. BORDE, J.)