

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.94 OF 2019

Amita Anil Wadke & Ors.

.. Petitioners

v/s.

The State of Maharashtra & Ors.

..Respondents

Ms. S.M.Dandekar for the Petitioners.

Mr. Saurabh Pakale with Ms. Trupti Puranik for the BMC.

Ms.Jyoti Chaven, AGP for the State.

CORAM : A.A.SAYED &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 11th DECEMBER, 2019.

P.C. :

1. The prayers in the Writ Petition read as follows:

“(a) that this Hon’ble Court may be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate, writ, Order and/or direction, directing Respondent No.1 to publish an Order in Official Gazette, notifying that the reservation of the said land has lapsed under Section 24(1)(a) of The Right to Fair Compensation Act, 2013;

(b) that this Hon’ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order and/or direction, directing Respondent No.2 to forthwith handover quiet, vacant, and peaceful possession of the said land (Survey No.107 CTS No.1304 A and B admeasuring 12,442.9 sq. mtrs) to the Petitioners;

(c) that in the alternative the Respondents be directed to pay the compensation for the acquired land Survey No.107, CTS No.1304 A and B as per Section 26 to 30 of the said The Right to Fair Compensation Act, 2013;"

2. The lands in question were acquired under the Urban Land (Ceiling and Regulation) Act, 1976, after an Order was passed under Section 8(4) of the Urban Land (Ceiling and Regulation) Act, on 29th November, 1979, whereby the surplus holding of the ancestors of the Petitioners was declared to be 11440.36 sq.mtrs. Possession of the said lands were taken and handed over to the Respondent Corporation on 23rd April, 1981. The possession receipt in respect thereof has been annexed at page 49 to the Petition. The changes on the property card were effected on 3rd December, 1992 showing the name of the Respondent Corporation as the owner. The lands in question are being used to public purposes and some portion is being developed as a playground as per the reservation in the sanctioned Development Plan, 2034.

3. In view of the above, the acquisition proceedings initiated under this Land Acquisition Act, 1984 were rightly not proceeded with. The ancestors of the Petitioners, if aggrieved ought to have invoked the remedies under the Urban Land (Ceiling & Regulation) Act. The question of application of Section 24 of the Right to Fair Compensation

and Transparency in Land Acquisition (Rehabilitation and Re-Settlement) Act, 2013 does not arise. The Petition is filed by the third generation almost after four decades and suffers from inordinate delay and latches.

4. In view of the above, we are not inclined to entertain the Petition. The Petition is dismissed.

(ANUJA PRABHUDESSAI, J.)

(A.A.SAYED, J.)