

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11328 OF 2017

Smt. Yamunabai Sukdeo Nalawade
V/S

...
....Petitioner

Collector, Nashik & Anr.

....Respondents
...

Mr. A.Y. Sakhare, Senior Counsel i/b Mr. Manoj Patil for the Petitioner.
Mr. N.K. Rajpurohit, AGP for Respondent Nos.1 and 2/State.
...

**CORAM : A.A. SAYED &
SMT. ANUJA PRABHUDESSAI, JJ.**
DATE : 07 JANUARY 2020.

ORDER:

1 It is not in dispute before the Court that the Notification under section 4 of the Land Acquisition Act was issued in the year 1955 and the Award was declared in 1958 and possession of the land pursuant to the Award was also taken. The present Petition is filed after about six decades. It is the contention of the Petitioners that the compensation has not been paid to their predecessor or to them and therefore the acquisition has lapsed by virtue of section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2 Affidavit-in-Reply is filed on behalf of the Respondent No.1-Assistant Collector/Sub Divisional Officer. In para 4 of the said Affidavit, it is stated as follows:

**Sudarshan
R. Katkam**

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Sudarshan R. Katkam
Date: 2020.01.20
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“4. It is submitted that, as the record of the Land Acquisition Case No.2/55 is appears to be very old. It is not traceable with the office of the Sub Divisional Officer, Nashik and also with the then Land Acquisition Officer, Nashik. It is submitted that, in-spite of repeated efforts, the Sub Divisional Officer, Nashik could not get the record. Therefore, present reply affidavit is filed on the base of records received from the acquiring agency i.e. Irrigation Department, Nashik. It is submitted that, these Respondents crave leave of this Hon'ble High Court to file additional affidavit in future after finding the record.”

It is further stated in the Affidavit-in-Reply that the Acquiring Body has deposited the entire compensation amount with the Special Land Acquisition Officer, Nashik and the amount of compensation paid to the original owner Savliram Kashiram Nalawade. An extract of copy of the Payment Register maintained by the Special Land Acquisition Officer has been annexed to the said Affidavit-in-Reply.

3 In view of the above, the contention of Petitioners that the acquisition has lapsed on account of non-payment of compensation is clearly misconceived. Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has no application to the facts of the present case. The judgment relied upon by the learned Senior Counsel for the Petitioners in the case of **Tukaram Kana Joshi & Ors. vs. Maharashtra Industrial Development**

Corporation & Ors. (2013) 1 SCC 353 does not assist the case of the Petitioners. As a matter of fact, in the said judgment it has been held that there can be no hard and fast rule as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is guilty of laches.

4 In the facts and circumstances of the case, we find there is an inordinate delay of six decades in filing the Petition, In our view, this is not a fit case to exercise the extra-ordinary and discretionary writ jurisdiction of this Court. The Writ Petition is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)

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