

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

WRIT PETITION NO. 1416 OF 2018

Indrayani Biotech Ltd.

.....Petitioner

v/s.

The State of Maharashtra and ors.

.....Respondents

Mr. Anoop Patil for the Petitioner.

Mr. V.S. Gokhale, 'B' Panel Counsel for Respondent Nos.1, 2 and 4.

Mr. Vilas Tapkir for Respondent No.3.

**CORAM: A.A. SAYED, AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATE : 28th JANUARY, 2020.

P. C. :-

1. The Petition is filed seeking the following reliefs :-

“ [a] this Hon'ble Court may be pleased to issue an appropriate writ, order or direction calling for the records and proceedings pertaining to acquisition of Petitioner's land bearing Gat No.1245 admeasuring 1 Hectre 01 Ares situated at village-Markad, Taluka-Khed, District-Pune and award dated 30/05/2004 passed by Respondent no.2, and after perusing the legality, validity and propriety thereof hold an declare that the said acquisition proceedings pertaining to the afore-said Petitioners' landed property has lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

[b] this Hon'ble Court may be further pleased to quash and set aside Award dated 30/05/2004 passed by Respondent No.2- The Special Land Acquisition Officer No.26, Pune, in respect of Petitioners' landed property bearing Gat No.1245 admeasuring 1 Hectre 01 Ares situated at village-Markad, Taluka-Khed,

District-Pune;

[c] this Hon'ble Court may be further pleased to quash and set aside the consequential action of the Respondents, dated 26/06/2014 thereby recording the Award 30/05/2004 passed by the Special Land Acquisition Officer No.26 in revenue record of land Gat No. 1245 to the extent of land admeasuring 1 Hectre 01 Are vide Mutation Entry No. 6558 and further mentioning the name of Collector, Pune in the Ownership Column of the 7/12 Extract of the land mentioned in the Award;

[d] pending the hearing and final disposal of this Writ Petition, the Respondents, their agents, servants and/or any other person/officer(s) acting under them be restrained by an order and injunction of this Hon'ble Court from proceeding further with the Award dated 30/05/2004 [Exhibit-B to the petition] and/or disturbing the peaceful possession and occupation of the Petitioners in their landed property bearing Gat No.1245 admeasuring 1 Hectre 01 Ares situated at village-Markad, Taluka-Khed, District-Pune. "

2. In the Affidavit-in-Reply filed on behalf of Respondent Nos.1, 2 and 4, the Deputy Collector, Land Acquisition No.26, Pune, in paragraph 3 and 4, it is averred as follows :-

" 3. I say that as the Acquiring Body did not deposit the amount of compensation in the office of Respondent No.2, the notice under Section 12(2) of Land Acquisition Act 1894 was not given to the persons interested. Also, possession of the lands falling in Mouje Markal, Tal. Khed, Dist. Pune was not taken and compensation was not paid to the landholders of the lands situated in Mouje Markal, Tal. Khed, Dist. Pune.

4. *I say that by letter dated 14.6.2017, the Respondent No.2 informed the Acquiring Body i.e. Respondent No.3 to submit a fresh acquisition proposal under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Acquiring Body by their letter dated 25.7.2017, informed the Respondent No.2 that the lands falling in Mouje Markal, Tal. Khed, Dist. Pune, admeasuring 84 hectars, 24 ares is not required for resettlement of Project Affected Persons of Bhama Askhed Project. Hence, it was not necessary to submit a fresh proposal. Hereto annexed and marked as **Exhibit 1** is copy of the letter dated 25.7.2017.*

In view of the above facts and circumstances, I say and submit that the present writ petition may be disposed of. "

3. It is an admitted position that neither the amount of compensation has been paid nor possession has been taken from the Petitioner of the subject land. Learned Counsel for the Petitioner has placed reliance on the judgment of the Division Bench of this Court dated 23/01/2019 in Writ Petition No.1365/2018 (**Vasant Mahadev Lokhande and anr. v/s. The State of Maharashtra and ors.**) wherein the Division Bench in similar circumstances held that the Award dated 30/05/2004 is deemed to have been lapsed. It is pointed out by the learned Counsel for the Petitioner that the Award declared is common in the aforesaid case and the present case.

4. Following the aforesaid order of the Division Bench and since it is an admitted position that neither the compensation has been paid to the Petitioner nor the possession of the subject land has been taken from the Petitioner, we hold that the Award dated 30/05/2004 is deemed to have been lapsed. We make it clear that notwithstanding the above, it will be open for the appropriate Government to initiate proceedings for acquisition of the subject land afresh in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5. The Petition is accordingly allowed in terms of prayer clauses (a) to (c).

Preeti
H.
Jayani

Digitally
signed by
Preeti H.
Jayani
Date:
2020.02.04
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(SMT. ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)