

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

WRIT PETITION NO.1632 OF 2019

Damu @ Damodar Mahadev Patil
(deceased) through its LRs

a. Kanubai Damu Patil and Ors.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

.....

Mr. Niketan Nakhwa for the Petitioners.

Mr. S.B. Kalel, AGP for the Respondent Nos.1 to 5.

Mr. B.B. Sharma for the Respondent Nos.6 to 8

Mr. Tejas Pawar i/b. Mr. Bhushan Walimbe for the Respondent
Nos.9(A) to 9(D), 9(E)(I) to 9(E)(III).

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

DATED: 24th JANUARY, 2020.

P.C.:-

The Petition is filed seeking the following reliefs:-

- i) That this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction in the nature of writ of Mandamus, thereby Quashing and rectifying the error made in the Award OR direct the Respondents to Rectify the error in respect of their land bearing Survey No.154E, Hissa No.9 situated at Maujhe/Village-Savarkar, Tehsil/Taluka Uran, District-Raigad to the extent of Area ad-measuring about 0-39-22 Hectare Ares having revenue assessment to the extent of 2.19RT and pay compensation at prevailing Market Rate and grant of benefits as have been granted to other

similarly situated persons including allotment of 12.5% developed plot to the Petitioners;

(ii) In the alternative 12.5% scheme, Direct the Respondent No.6 to 8 to allot the Plot bearing Bhukand No.198 ad-measuring 350 square metres situated at Sector No.53, Dronagiri Node to the Petitioners and cancel the allotment of Respondent No.9.

(iii) Direct the Respondent-State not to hand over the possession of allotted Plot bearing Bhukand No.198 ad-measuring 350 square metres situated at Sector No.53, Dronagiri Node to the Respondent No.9.

2. It is the case of the Petitioners that their predecessor Damu Mahadev Patil was original tenant of the subject land being land bearing Survey No.154E, Hissa No.9. The aforesaid land came to be acquired and an award was made in the year 1986. According to the Petitioners, the award was wrongly made in the name of Babu Mahadev Patil, and it ought to have been made in the name of Damu Mahadev Patil who was his brother.

3. In paragraph No.12 of the Petition, the Petitioners have averred as follows:

“12.The Petitioners state that the Petitioners did not receive any kind of compensation of whatsoever nature in lieu of the acquired land. However, at the time Late Babu Mahadev Patil, had stated that he has received

compensation amount in lieu of some of their ancestral lands and on account of love and affection towards his brothers, showed his willingness to hand over some of the amount to his brother Late Damu Mahadev Patil on his own will. Accordingly, Babu Mahadev Patil transferred some of the Amount in the Bank Account of Dattatreya Damu Patil who was a minor at that time. But Babu Mahadev Patil concealed information about the money he transferred and also the fact that he received the compensation in respect of land belonging to Damu Mahadev Patil.”

4. The Petition is filed after the inordinate delay of 33 years. The Petition thus suffers from delay and laches. Even otherwise, the Petition is devoid of merits. Admittedly the ancestors of the Petitioner-Damu had not filed any reference raising any dispute of apportionment of compensation.

5. The Petition is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)

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