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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

999 Writ Petition No.11874 Of 2019

Parmeshwar Baburao Bahir and Others .. Petitioners

Versus

The State of Maharashtra and Others .. Respondents

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Mr S.D. Jayabhar, Advocate for the Petitioners
Mr PK. Lakhotiya, AGP for respondent nos.1 to 3
Respondent No.4 – Served.

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**CORAM : S. V. GANGAPURWALA AND
R.N. LADDHA, JJ.**

DATE : 14-10-2021

PER COURT :

1. We have heard the learned Counsel for the petitioners and the learned AGP.

2. The notification under Section 4 of the Land Acquisition Act, 1894 was issued on 23-12-2010. Declaration under Section 6 was issued on 20-09-2012 and the Award was passed in respect of the land of the petitioners on 09-06-2014.

3. The petitioners claim that the multiplier as provided under Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as

the 'Right to Fair Compensation Act') is not applied.

4. The learned AGP submits that 80% of the amount of compensation was paid to the petitioners before the Award was passed. In view of Section 24, the petitioners would not be entitled to the benefit as sought for. Section 24 of the Right to Fair Compensation Act reads thus:

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.–

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, -

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings 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 this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition

Act, shall be entitled to compensation in accordance with the provisions of this Act.

Provided further that, in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a tribunal for taking possession or such period where possession has been taken but the compensation is lying deposited in a court or in any designated account maintained for this purpose on account of refusal or not coming forward for receiving compensation despite receipt of such notice under sub-section (2) of section 12 of the Land Acquisition Act, 1894, shall be excluded. Also if the said land is mutated within three years after passing the award in the name of acquiring body, it shall be deemed that the possession of the land has been taken. ”

5. Clause (a) of Sub Section (1) of Section 24 suggests that where no Award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to determination of compensation shall apply.

6. The said provision is unambiguous. The Award was not made under Section 11 of the Land Acquisition Act, 1894 prior to the commencement of the Right to Fair Compensation Act. The Right to Fair Compensation Act commenced on 01-01-2014. As the Award has been passed subsequent to the enactment of the Right to Fair Compensation Act, the determination of compensation shall be in accordance with Right to Fair Compensation Act.

7. In light of the above, the respondents shall determine the

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amount of compensation payable to the petitioners as per the Right to Fair Compensation Act considering the notified date as the date of notification under Section 4 of the Land Acquisition Act, 1894 i.e. 23-12-2010. The same shall be done, preferably within six months. The amount already paid shall be adjusted.

8. Writ petition is accordingly disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

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