

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7556 OF 2019**

Balaso Babu Khot and Anr.

... Petitioner

V/s.

The State of Maharashtra,
Through Director and Ors.

... Respondents

Mr. Tejpal Shrikant Ingale a/w Mr. Ajit L. Magdum, Advocate for the
Petitioners.

Mr. S.B. Kalel, AGP for the Respondent - State.

**CORAM : SMT. SADHANA S. JADHAV &
SARANG V. KOTWAL, JJ.**

DATE : 11th AUGUST 2021.

P.C. :

1. Heard the learned counsel for both the parties.
2. Rule. Rule made returnable forthwith with the consent of
the parties.
3. The petition is filed seeking the prayer as follows :

“(ii) To direct the Respondents to forthwith initiate the acquisition proceeding and pass Award for the said acquired land in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of Petitioner’s lands acquired bearing Gat No.231 admeasuring 0-H 76-R and Gat No.666/B admeasuring 0-H 86-R situated at Samdoli, Tal. Miraj,

Dist. Sangli and make payment of compensation accordingly to the Petitioners immediately within reasonable period.”

4. The agricultural land of the petitioners bearing Gat No.912 admeasuring 1-H 62-R was acquired for the purpose of resettlement of the project affected persons. An Award was passed to that effect on 19th January 1988. Although the Award was passed the Collector had not issued any notice calling upon the petitioners to receive the compensation. Moreover, the possession of the said land bearing Gat No.912 admeasuring 1-H 62-R was also not taken from the petitioners by the Competent Authority.

6. The petitioners, in the meanwhile, had filed Writ Petition No.4569 of 1987. The said writ petition was decided by this Court vide order dated 10th November 1994. In the course of hearing of the said writ petition, the petitioners had agreed to give an alternate land for the purpose of acquisition. This Court had granted liberty to the petitioners to make a representation to the concerned authority and offer the alternative land. Pursuant to the order passed by this Court, the petitioners had offered land bearing Gat No.231/A admeasuring

76-R and land bearing Gat No.666/B admeasuring 86-R at village Samdoli. The possession of the said lands were taken on 28th March 1995. The mutation entry was also effected. It is pertinent to note that no Award was passed in respect of the acquisition of the said land.

7. The petitioners had made several representations seeking compensation in respect of the acquisition of lands bearing Gat No.231/A and 666/B. However, till today, the petitioners have not received compensation. The learned counsel for the petitioners submits that although the authorities had taken possession way back in 1995, neither the Award was not passed nor the petitioners have got compensation in respect of the land acquired in the year 1995 and therefore, according to the learned counsel, it is incumbent upon the authorities to draw an Award. Since, the Award would be drawn after the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would be passed and the petitioners would be entitled to compensation as per the New Act. The petitioners had also made representation to the Collector seeking compensation, however, the Collector, Sangli had considered the said representation and decide the representation vide order dated 4th

February 2020. The Collector has denied the claim of the petitioners to receive the compensation for the land which was acquired by the Government. According to the Collector, since the petitioners had offered that land voluntarily he would not be entitled to the compensation. Secondly, since the Award for the said acquisition is not drawn till today, the petitioners would not be entitled to compensation either. That, while passing previous Award, the compensation for land bearing Gat No.912 admeasuring 1-H 62-R was undertaken and said exercise was not undertaken in respect of the alternative land. It is admitted by the Collector that the possession of the alternate land offered by the petitioners is taken on 28th March 1995 which is admittedly prior to the New Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force. The learned AGP has submitted that in the absence of Award no compensation is payable to the petitioners for the land that is acquired in the year 1995. We are of the opinion that it would be necessary to draw an Award in respect of the acquisition of land bearing Gat No.231/A and land bearing Gat No.666/B. Hence, we direct that the Collector, Sangli to draw an Award in respect of land bearing Gat No.231/A and Gat No.666/B not later than six months

from today and after drawing an Award compensation for the said acquisition be disbursed in favour of the petitioners within six months as per the New Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The petitioners are also at liberty to take recourse to appropriate legal action in the eventuality that he does not agree with the quantum of compensation that would be offered by the Collector.

8. Rule is made absolute in above terms. Writ Petition is disposed of.

(SARANG V. KOTWAL, J)

(SMT. SADHANA S. JADHAV, J),

Digitally signed
by PALLAVI
MAHENDRA
WARGAONKAR
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