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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11639 OF 2016**

Shankar N. Dhumal and ors. ... Petitioners
V/s.
The State of Maharashtra and ors. ... Respondents

Mr. Arjun Kadam i/b Muhammad S. Gaya for the Petitioner.
Mr. P.G. Sawant, AGP for Respondent Nos.1 to 6.

**CORAM : PRASANNA B. VARALE &
N.R. BORKAR, JJ.
DATE : 07.10.2021.**

P.C.

1] Heard the learned counsel for the petitioners and the learned AGP for respondent Nos.1 to 6.

2] The petitioners approached this court by raising a ground that the acquisition proceedings in respect of Gat No.370 and 371/3 admeasuring 0 Hectare 29 R and O H. 80 R situated at Mouje-Mukhai, Taluka - Shirur, District Pune have lapsed in view of provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is further prayed that directions may be issued to the respondents to cancel the entries of lapse acquisition in 7/12 extract of Gat No.370 and 371/3 and to restore the position before acquisition proceedings.

3] The issue involved in the present petition was pending before the Apex Court and thus, the petition was adjourned

sine die and the parties were permitted to mention the matter as soon as the issue is decided by the Hon'ble Supreme Court.

4] It may not be out of place to state that the petitioners were offered compensation against the acquisition of their lands and the documents to that effect are placed on record at page 37. It is not in dispute that the petitioners declined to accept the compensation.

5] The learned counsel for the petitioners fairly submits that the Hon'ble Supreme Court has answered the issue involved in the present petition against the petitioner by its judgment delivered on 6.3.2020 in the case of ***Indore Development Authority vs. Manoharlal and ors. - (2020) 8 SCC 129.*** He invited our attention to the observations of the Hon'ble Apex Court and more particularly paragraph 366 where ultimate conclusions are drawn by the Hon'ble Apex Court. The same reads as under:

"366. In view of the aforesaid discussion, we answer the questions as under:

366.1. Under the provisions of [Section 24\(1\)\(a\)](#) in case the award is not made as on 1.1.2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act.

366.2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under [Section 24\(1\)\(b\)](#) of the 2013 Act under the 1894 Act as if it has not been repealed.

366.3. The word 'or' used in [Section 24\(2\)](#) between

possession and compensation has to be read as 'nor' or as 'and'. The deemed lapse of land acquisition proceedings under [Section 24\(2\)](#) of the 2013 Act takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.

366.4. The expression 'paid' in the main part of [Section 24\(2\)](#) of the 2013 Act does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to [Section 24\(2\)](#) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under [Section 4](#) of the 1894 Act shall be entitled to compensation in accordance with the provisions of the 2013 Act. In case the obligation under [Section 31](#) of the Land Acquisition Act, 1894 has not been fulfilled, interest under [Section 34](#) of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the 2013 Act has to be paid to the "landowners" as on the date of notification for land acquisition under [Section 4](#) of the 1894 Act.

366.5. In case a person has been tendered the compensation as provided under [Section 31\(1\)](#) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under [Section 24\(2\)](#) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under [Section 31\(1\)](#). The landowners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under [Section 24\(2\)](#) of the 2013 Act.

366.6. The proviso to [Section 24\(2\)](#) of the 2013 Act is to be treated as part of [Section 24\(2\)](#) not part of

Section 24(1)(b).

366.7. *The mode of taking possession under the 1894 Act and as contemplated under Section 24(2) is by drawing of inquest report/ memorandum. Once award has been passed on taking possession under Section 16 of the 1894 Act, the land vests in State there is no divesting provided under Section 24(2) of the 2013 Act, as once possession has been taken there is no lapse under Section 24(2).*

366.8. *The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the 2013 Act came into force, in a proceeding for land acquisition pending with authority concerned as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.*

366.9. *Section 24(2) of the 2013 Act does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013 Act, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.*

(Emphasis supplied).

6] In view of above, the present petition deserves to be dismissed. Accordingly, Writ Petition is dismissed

(N.R. BORKAR, J.) (PRASANNA B. VARALE, J.)