

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

WRIT PETITION NO.2195 OF 2022

BHANUDAS AABA ARGADE DEAD THROUGH LEGAL HEIRS GOVIND
BHANUDAS ARGADE AND OTHERS ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. S. K. Shinde, Advocate for the Petitioners.
Mr. S. K. Tambe, AGP for Respondents-State.

...

**CORAM : S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATED : 01st MARCH, 2022.

PER COURT:-

1. The learned counsel for petitioners and learned A.G.P. on written instructions submit that, land of petitioners was acquired under Award dated 08.03.1996.

2. Mr. Shinde, the learned counsel states that, the award dated 08.03.1996 in respect of land of petitioners bearing Sy. No. 256/1 admeasuring 40R situated at village Kolhewadi, Tq. Sangamner, Dist. Ahmednagar is illegal and bad in law and deserves to be quashed and set aside as it is not passed within two years from the date of publication of declaration U/Sec. 6 of the Land Acquisition Act (for short "L. A. Act"). The learned counsel relies on the judgment of the Division Bench of this Court in a case of **Mahesh**

Shivaji Dighe and another Vs. State of Maharashtra and others reported in 2004(4) Mh. L. J. 614.

3. Mr. Shinde, the learned counsel further submits that, another Division Bench of this Court in Writ Petition No. 1003 of 2013 vide judgment and order dated 20th June 2013 has followed the same course and set aside the award to the extent of petitioners in the said writ petition.

4. The learned counsel submits that, the petitioners herein have not filed any reference U/Sec. 18 of the L. A. Act, nor they have been paid amount of compensation pursuant to the award 08.03.1996 till date.

5. Mr. Tambe, the learned Assistant Government Pleader submits that, in the earlier judgment of this Court in a case of **Mahesh Shivaji Dighe and another Vs. State of Maharashtra and others** referred to supra, this Court has not considered that subsequently corrigendum was published on 12.07.1994 and 09.07.1994 that would explain the period of time within which award U/Sec. 11 has to be passed.

6. We have considered the submissions canvassed by learned counsel for respective parties.

7. It is not disputed that, the award pursuant to which the land of the present

petitioners was acquired was subject matter of consideration by this Court in a case of **Mahesh Shivaji Dighe and another Vs. State of Maharashtra and others** referred to supra, so also in Writ Petition No. 1003 of 2013. This Court had set aside the award on the ground that, same is not passed within a period of two years of declaration U/Sec. 6 of the L. A. Act. In the present case, the petitioners' land being acquired pursuant to the same award shall naturally receive the same fate.

8. There is an additional ground to consider the case of petitioners. The petitioners state that, till date petitioners have not been paid any compensation amount pursuant to the award dated 08th March, 1996, in view of Sec. 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Act (for short "Right to Fair Compensation Act") stands lapsed. Though the same is not a ground raised in the present writ petition, but petitioners have stated that they have not received any amount of compensation till date pursuant to the said award, relying on the said statement the provisions of Sec. 24(2) of the Right to Fair Compensation Act can be made applicable.

9. In the light of the above, the writ petition is allowed. The award dated 08.03.1996 to the extent it relates to the land of petitioners is

quashed and set aside. Pursuant to the said award being quashed and set aside, petitioners may approach the revenue authorities for correction of mutation entry.

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/March-2022