

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

WRIT PETITION NO.4883 OF 2017

1. Smt. Mainabai w/o Raosaheb Bhere,
Age: 70 years, Occup: Household,
R/o. Kambi, Tq. Shevgaon,
Dist: Ahmednagar.
2. Parmeshwar s/o Raosaheb Bhere,
Age: 40 years, Occup: Agril.,
R/o. Kambi, Tq. Shevgaon,
Dist: Ahmednagar.
3. Smt. Meera w/o Kalyan Barsale,
Age : 50 years, Occup. Household,
R/o Shivanagar, Gadiya Vihar Road,
Shahnoorwadi, Aurangabad.
4. Smt. Savita w/o Ashok Mhaske,
Age : 46 years, Occup. Household,
R/o Kambi, Tq. Shevgaon,
District : Ahmednagar.
5. Smt. Jyoti w/o Rajendra Rasal,
Age : 44 years, Occup. Household,
R/o Kambi, Tq. Shevgaon,
District : Ahmednagar.

...Petitioners

Versus

1. The Collector & Settlement
Deputy Director (Land),
District : Ahmednagar.
2. The State of Maharashtra
(Concerned Department,
Revenue Department,
Mantralaya, Mumbai 400 032)
3. Bajirao s/o Kanhu Sonnar,
Age : 85 years, Occup. Agriculture,
R/o Kambi, Tq. Shevgaon,
District : Ahmednagar.

4. Babu s/o Kanhu Sonnar,
Age : 80 years, Occup. Agriculture,
R/o Kambi, Tq. Shevgaon,
District : Ahmednagar.

5. Laxman s/o Sitaram Sonnar,
Age : 55 years, Occup. Agriculture,
R/o Kambi, Tq. Shevgaon,
District : Ahmednagar.

...Respondents

Mr A.P. Sonpethkar holding for Mr. P.N. Sonpethkar, Advocate for the petitioners;

Mr. S.B. Pulkundwar, AGP for respondent nos.1 & 2

**CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ.**

DATE : 03rd MARCH, 2022

ORDER (PER S.G. MEHARE, J.) :-

1. By way of this writ petition, the petitioners are seeking direction against respondent no.1/The Collector and Settlement Deputy Director (Land) District Ahmednagar, to execute his own order, dated 27.06.1984 of restoration of the land acquired from their grandfather in the year 1976.

2. The land owned by the grandfather of the petitioner, situated at village Kambi, was acquired under the Land Acquisition Act 1894, and the award was also passed. The acquired land was distributed to respondent nos. 3 to 5 being Project Affected Persons. They are still in possession of the said land. Respondent no. 1, by his order dated 27.06.1984, re-tagged the land measuring 81 Are under paragraph

no.307 of the Land Acquisition Manual. The petitioners' grandfather and father slept over the right to execute the said order for 33 years, and all of a sudden, the petitioners approached this Court, seeking the direction as stated above.

3. The first question that is raised is what refrained the petitioners' forefathers from approaching the Court within a reasonable time? Why did they not approach the Court for 33 years?

4. We are not oblivious that there is no prescribed period of limitation for filing a writ petition. However, the principle is that the Court should not examine stale causes. The law is settled by a catena of judgments that the remedy under Article 226 of the Constitution of India should be sought within a reasonable time. Inordinate and unexplained delay may be good ground for refusing to grant relief. The Hon'ble Apex Court in **State of U.P Vs Bahadur Singh, AIR 1983 SC 845** laid down the law that, 'where the explanation offered for the delay is convincing and acceptable, the writ petition should not be dismissed on the sole ground of delay'. The petitioners have offered no explanation as to why 33 years delay is caused. Barely submitting that they made representations to the concerned Authority from time to time, is not the explanation for the delay. On this ground, the petition is liable to be dismissed.

5. The learned A.G.P. Shri Pulkundwar would argue that the order asked to be implemented or executed was without jurisdiction. To bolster his argument, he placed on record a Government letter dated 19.08.1984 issued by the Revenue and Forest Department, Mantralaya, Mumbai, under the signature of the Assistant Secretary.

6. The letter referred to by the learned A.G.P. reflects that by a Government Resolution dated 15.11.1978, the powers of administrative appeal were conferred on the Land Acquisition Officers for dealing with the acquired lands as per the slab. However, by another Government Resolution dated 14.12.1982 the administrative appellate powers were withdrawn. The specific directions were issued to the Collector Ahmednagar that if any such cases of re-tagging/returning the lands to the landowners are discovered in his District, it's data be collected, and the lands allotted to Projected Affected Persons should not be withdrawn from them. The contents of the said letter indicate that if any orders as such are passed, then the possession of the Project Affected Person should not be withdrawn. The order sought to be implemented is impliedly called back and made ineffective by the said letter itself.

7. For the reasons stated above, we do not find merit in the petition. Hence, the petition is dismissed.

8. No order as to costs.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE , J.)

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