

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

949 WRIT PETITION NO.6238 OF 2022  
WITH CA/16720/2022 IN WP/6238/2022

MURLIDHAR RANU KANWADE DEAD THROUGH LRS  
BALASAHEB MURLIDHAR KANWADE  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY  
AND OTHERS

...

Advocate for Petitioner : Mr. S. K. Shinde  
AGP for Respondents State: Mr. P. K. Lakhotiya  
Advocate for Respondent No.5 : Mr. Hemant U. Dhage

**CORAM : MANGESH S. PATIL &  
Y. G. KHOBRAGADE, JJ.**  
**DATE : 13.12.2022**

**ORDER:**

1. Heard. The petitioners are claiming following reliefs:

- "(A) It may be held and declared that, the above award passed by the respondent No.4 i.e. Land Acquisition Officer No.4, Ahmednagar in respect of petitioners land to the extent of 0H 34 R from land Gat No. 11/7 (Old survey No. 11/2A + 2B/2) Village Sultanpur (Kalas), Tq. Akole, District Ahmednagar, is liable to be cancel as the said land is not required for construction of Right Bank Canal of Nilwande Dam due to the change of alignment of canal.
- (B) To quash and set aside the award dated 30.06.1986 bearing LAQ/SR/286/84 passed by respondent No.4 for acquiring the land of the petitioners bearing Gat No. 11/7 (Old survey No. 11/2A + 2B/2) admeasuring 0 H. 34 R. situated at village Sultanpur (Kalas), Tq. Akole, District Ahmednagar on the ground that it is lapsed in view of sub-section 2 of Section 24 and 101 of the Right to Fair Compensation and Transparency in

the Land Acquisition, Rehabilitation and Resettlement Act, 2013."

2. The learned advocate Mr. S. K. Shinde for the petitioners submits that though there was an acquisition proceeding, the petitioners' land was not utilized for the purpose for which it was acquired and it continued to be in their possession and it be declared that the acquisition has lapsed. The learned advocate refers to the decision of this court in the matter of **Bapu Shivaji More (Died) Through L.Rs. Vs. The State of Maharashtra in Writ Petition No. 10131 of 2021 dated 14.12.2021** and submits that in a similar set of facts, this court had issued directions to the petitioners therein to return the amount of compensation and to cancel the award with consequential reliefs.

3. The learned advocate for the petitioners further submits that in violation of the observations and conclusion of this Court in the matter of **Vishnu Namdeo Kumar and others Vs. State of Maharashtra, 2002 (4) Mh. L.J. 181**, an attempt is now being made to allot the petitioners' land to someone else without resorting to auction.

4. The learned AGP submits that the State Government does not have any policy to return the unused land to the original owner.

5. So far as the relief of lapsing is concerned, suffice for the purpose to observe that once the acquisition proceeding has concluded in all respect, there is no question of lapsing.

6. Assuming that the petitioner's land has not been used for the propose for which it was acquired, still, when pursuant to the acquisition proceeding, the land vests in the State or the acquiring body, in the absence of any policy by the State Government to return the unused land, we only have to follow the decision in the matter of **Vishnu Namdeo Kumar (supra)** wherein it has been concluded that once the acquisition reaches finality, the original owners cease to have any right, title or interest over the land and the owner cannot insist either to utilize it or restore it.

7. The decision in the matter of **Bapu Shivaji More (supra)**, in our considered view, cannot be followed as a precedent, inasmuch as there is no reference to the decision in the matter of **Vishnu Namdeo Kumar (supra)**.

8. Writ petition is dismissed.

9. Civil application is also disposed of as withdrawn.

(Y. G. KHOBRAGADE, J.)

( MANGESH S. PATIL, J.)