

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1936 OF 2022

Govind Yesu Jadhav - Mahar (Deceased)
Through Legal Heirs & Ors. Petitioners

Vs.

State of Maharashtra & Ors. Respondents

Mr. Amol Gatne for the Petitioners
Mr. R. S. Pawar, AGP for State

**CORAM: S.V. GANGAPURWALA &
VINAY JOSHI, JJ.**

DATED : MARCH 31, 2022

P.C.

1 The learned Advocate for the Petitioners submits that Respondent Nos.9 and 10 are served and the service affidavit to that effect is filed.

2 The present Petition is filed with the following prayer:

Prayer clause :

“(A) That this Hon'ble Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, direction and order under Article 226 of the Constitution of India, 1950, holding that the Award and the entire land Acquisition proceeding culminating into an Award dated 31st

August 2015 in SR No.148/2012 in respect of the suit property slab area 01H 04 Ares from bearing Gat No.1394 area 01H 73 Ares out of total holding admeasuring 5H 20 Are, belonging to Petitioners herein has lapsed under the provisions of Section 25 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

3 Amongst other contentions, one of the contentions raised by Mr.Gatne, learned Advocate for the Petitioner is that the award is not passed within stipulated period, hence, stands lapsed. The Notification under Section 4 of the writ land was issued on 3rd July 2012. The Notification under Section 6 was issued on 5th September 2013. The Award was passed on 31st August 2015. The learned Advocate submits that the Award passed on 31st August 2015 is beyond the period prescribed under Section 25 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (**Act of 2013**). In view of that the Award stands lapsed.

4 The learned Counsel, to substantiate his contention relies upon the judgment of the Apex Court in the case of ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation***

Development Corporation Vs. Mahesh & Others¹

5 The learned AGP submits that the Notification under Section 4 was published at village chawdi on 10th September 2012 and Section 6 Notification was published on 5th September 2013. The Award was passed on 31st August 2015. The learned AGP submits that there was stay operating from 26th May 2014 and the same was operative till 23rd September 2014. The said days will have to be deducted while computing the period of one year. The learned AGP submits that in view of that, the acquisition does not lapse.

6 We have considered the submissions. There cannot be any dispute with the proposition put-forth by the learned AGP that the period, the stay was operating for passing the Award, has to be deducted. However, considering the factum that the Notification under Section 6 was published on 5th September 2013, passing of the Award on 31st August 2015 and the period the stay was operating i.e. 79 days, it would be clear that the Award was passed beyond one year from the date of declaration under Section 6 of the said Act.

In our view, the acquisition shall stand lapsed. Reference can be had to the judgment of the Apex Court in the matter of Executive Engineer, Gosikhurd Project Ambadi (Supra).

7 The Affidavit filed by the State also nowhere states that the State Government had extended the period for passing the Award, as was permissible under Section 26 of the Act of 2013.

8 In the light of the above, the acquisition pursuant to the Award dated 31st August 2015 in respect of the writ land, stands lapsed. Further consequences shall follow.

9 Rule is accordingly made absolute.

10 The Writ Petition stands disposed of. No costs.

(VINAY JOSHI, J.)

(S.V. GANGAPURWALA, J.)