

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1384 OF 2019

Shri.Tukaram Mahadu Lokhande

...Petitioner

Versus

The Land Acquisition Officer No.26,
Pune & Ors.

...Respondents

Mr.Sudhir Sadavarte for the Petitioner.

Mrs.A.A. Purav, AGP for the Respondent-State.

**CORAM : S.V. GANGAPURWALA &
M.G. SEWLIKAR, JJ.**

DATE : 19 APRIL 2022

P.C.:-

1. Rule. Rule made returnable forthwith by consent of parties.

2. Heard the learned counsel for the Petitioner and the learned AGP.

3. The learned counsel submits that though the award is passed on 30 May 2004, the possession is not taken by the Respondents nor the amount of the compensation is paid.

4. The learned counsel for the Petitioner submits that

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some of the persons whose lands were acquired under the award dated 30 May 2004 has approached this Court by filing the Writ Petition, bearing Writ Petition No.14755 of 2018 with connected Writ Petitions. This Court by judgment and order dated 17 January 2019 allowed the Writ Petitions holding that the award dated 30 May 2004 stands lapsed.

5. The Division Bench of this Court under the said order has observed thus :

“3. The agriculture lands belonging to the petitioners were the subject matter of acquisition for rehabilitation of project affected persons of Bhama Askhed Project. The Award under Section 11 of the Land Acquisition Act, 1894 has been declared on 30.5.2004 in observance of the procedure prescribed by the Land Acquisition Act of 1894. It is the contention of the petitioners that though the Award is declared in the year 2004 the amount of compensation determined by the Land Acquisition Officer has not been paid nor the possession of the lands in question has been taken either by the acquiring body or the State Government. Learned counsel appearing for the petitioners has invited our attention to Para 20 of the Award where in it has been recorded that the advance possession of the land under acquisition has not been taken over. It is also evident from the communication annexed to the petition addressed to the Dy. Collector(Land Acquisition) No.26 to the Executive Engineer, Bhama Asakhed Dam Project on 14.7.2015 calling upon the concerned authority to deposit the amount of compensation. In view of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 since the land acquisition Award under Section 11 has been made five years or more prior to the commencement of the Act of 2013 neither the amount of compensation has been paid nor physical possession of the property has been taken

over, the proceedings of Award shall be deemed to have lapsed and the appropriate Government, if it so choses, shall initiate the proceedings of such land acquisition a fresh in accordance with the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is therefore declared that, the proceedings of land acquisition initiated under the Act of 1894 which has culminated into passing of the Award on 30.5.2004 shall be deemed to have lapsed and it would be open for the appropriate Government if it so choses to initiate the proceedings for acquisition of the of the subject land afresh in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

6. It appears that in the present case also land is acquired for the rehabilitation of the Project Affected Persons of Bhama Askhed Dam and the land is also acquired under the same award dated 30 May 2004, the Petitioner is similarly situated.

7. For the reasons recorded in the order dated 17 January 2019 in Writ Petition No.14755 of 2018 with connected Writ Petitions the present Writ Petition is also allowed.

8. The proceedings of land acquisition under the Act of 1894 which has culminated into the award dated 30 May 2004 is deemed to have lapsed. In case if the Acquiring Body or the Government wants to acquire the land it may do so by initiating proceedings afresh under the Act 2013.

9. Rule made absolute accordingly.

(M.G. SEWLIKAR, J.)

(S.V. GANGAPURWALA, J.)