

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4927 OF 2021

Pandit Dnyanoba Tapkir

...Petitioner

Versus

The Deputy Collector Land Acquisition
Officer & Ors.

...Respondents

Mr.Nitin Deshpande for the Petitioner.

Mr.Sandeep S. Ladda for Respondent No.4.

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

DATE : 29 APRIL 2022

P.C:-

. The Petitioner is challenging the award dated 31 August 1986.

2. Mr.Deshpande, the learned counsel for the Petitioner submits that the award dated 31 August 1986 is vitiated. The Section 4 Notification did not mention the land of the present Petitioner. Section 6 declaration also did not mention the land of the present Petitioner. Only in the award, the land of the Petitioner was shown. As Notification under Section 4 and Declaration under Section 6 was not issued, the award stands vitiated.

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3. The learned counsel to substantiate his contention relied upon the judgment of the Apex Court in a case of *D.B. Basnett (D) Through Lrs. V/s. The Collector, East District, Gangtok, Sikkim & Anr.*, in Civil Appeal No.196 of 2021.

4. The learned counsel submits that the contentions of the Respondents that the father of the Petitioner has received the compensation on 1 September 1986 is incorrect. On 8 September 1986 the letter was written by the Revenue Officer seeking amount for making payment to the father of the Petitioner. This would itself falsify the case of the Respondents.

5. The learned counsel submits that the possession of the said land is still with the Petitioner. The land of the Petitioner is not adjacent to the High Way, there is a distance of 8 meters in between the Highway and the land of the Petitioner.

6. According to the learned counsel the letter dated 8 September 1986 from the father of the Petitioner also states that the compensation is not received. All these facts would go to show that the procedure as is contemplated under the provisions of the Land Acquisition Act is not followed, thereby vitiating the acquisition proceeding itself.

7. Mr. Ladda, the learned counsel for the Respondent-

Authority and learned AGP submit that the Petitioner cannot challenge the award after a delay of 35 years. According to the learned counsel, the Petitioner earlier filed a Writ Petition challenging the acquisition on the ground of Section 24(2) of the Act of 2013. In the said Petition a specific statement is made by the Petitioner in paragraph 4 “that the father of the Petitioner accepted the compensation amount”.

8. It is submitted by the Respondents that the *Taba Pawti* (possession receipt) is also on record, stating therein that the father of the petitioner has delivered the possession. The receipts are also placed on record showing that the compensation amount is paid to the father of the Petitioner.

9. We have considered the submissions. The Petitioner earlier had filed WP No.5873 of 2014 challenging the award on the ground that the acquisition stood lapsed.

10. The challenge was on the ground that in the similar situation the other acquired land was released, in the said Writ Petition the affidavit appears to have been filed by the State-Authority.

11. In the Writ Petition memo of WP No.5873 of 2014 a specific statement is made by the Petitioner that the father of the

Petitioner has received the compensation amount. The State has placed on record the copies of the *Taba Pawti*. The document showing that the father of the Petitioner received the compensation amount. The Petitioner has not raised this ground of challenge for long slumber of 35 years. After lapse of 35 years Petitioner has challenged the award on the said ground. The same would not be tenable.

12. Infact the father of the Petitioner acquiesced in the acquisition, in as much as after the award is passed, accepted the compensation amount and has also given in writing that he does not have any objection for the acquisition. The State has acted upon the statement which appears to have been made on 8 September 1986.

13. Considering above, it would not be possible to entertain the Writ Petition after long delay of 35 years as the father of the Petitioner has accepted the compensation amount and possession was delivered and the father of the Petitioner during his lifetime had never raised any grievance about the same.

14. The Writ Petition is disposed of. No costs.

15. The learned counsel submits that even otherwise the

Respondents is not in need of the land. If the Petitioner approaches the Authority, it is for the Authority to consider the grievance of the Petitioner as may be permissible under law.

(M.G. SEWLIKAR, J.)

(S.V. GANGAPURWALA, J.)