

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3153 OF 2022

Baban Namdeo Lokhande

(Since deceased through his LRs)

1 a) Jaywant Baban Lokhande

.. Petitioner

Versus

The State of Maharashtra and Ors.

.. Respondents

.....

Mr.Sachin H. Deokar, Advocate for the Petitioner.

Mrs.R.M. Shinde, AGP for the Respondent – State.

.....

**CORAM : NITIN JAMDAR AND
SHARMILA U. DESHMUKH, JJ.**

DATED : 03 October 2022.

P.C. : (Per : SHARMILA U. DESHMUKH, J.)

Heard the learned counsel appearing for the parties.

2 By this Petition filed under Article 226 of the Constitution of India, the Petitioner prays for a declaration that the acquisition proceedings in respect of the land admeasuring 58 Ares from and out of land bearing Gat No.1152, admeasuring 1 Hectare 88 Ares situated at

Mouje Markal, Taluka-Khed, District-Pune have lapsed in view of provisions of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, “the said Act of 2013”). The petitioner is owner of land bearing Gat No.1152, admeasuring 1 Hectare 88 Ares situated at Mouje Markal, Taluka-Khed, District-Pune, out of which land admeasuring 58 Ares came to be acquired since the village of the Petitioner fell in the benefited zone of Bhama Askhed Project. On 15 March 2000 Notification under Section 4(1) of the Land Acquisition Act came to be issued and was published in the Government Gazette. On 25 May 2000, declaration under Section 6(1) of the Land Acquisition Act came to be passed and on 30 May 2004, Award came to be passed by the Special Land Acquisition Officer No.26, Pune.

3 The learned counsel appearing for the Petitioner submits that pursuant to the Award passed on 30 May 2004, the Respondent has neither taken possession of the Petitioner’s land nor compensation has been paid in respect of the said acquisition. He further submits that in view of the Judgment of the Apex Court in the case of ***Indore Development Authority Vs. Manoharlal and Ors.***¹, the acquisition

1 (2020) 8 SCC 129

proceedings stand lapse in view of Section 24(2) of the said Act of 2013.

3 The learned AGP relied upon the affidavit-in-reply dated 19 September 2022, filed by one Shri.Snehal Bhosale, Deputy Collector, Land Acquisition Officer 26, Pune, and submits that appropriate orders may be passed.

4 A perusal of the affidavit-in-reply of Shri Snehal Bhosale, Deputy Collector, Land Acquisition Officer 26, Pune, ("SLAO", for short) clearly indicates that after passing of the Award on 30 May 2004, possession of the land falling in village Mouje Markal, Taluka-Khed, District-Pune was not taken and compensation was not paid to the land holders of the said land as acquiring body has not deposited the amount of compensation. It is also admitted that notices under Section 12(2) of the said Act were not issued to the interested persons as the acquiring body had failed to deposit the amount of compensation. Letter dated 15 September 2012, annexed to the said affidavit-in-reply indicates that the Special Land Acquisition Officer had informed the acquiring body to deposit the compensation amount which has not been deposited by the acquiring body. The learned counsel for the Petitioner submits that

by a Government Notification dated 1 April 2016, the State Government has notified that they had received a letter from the Executive Engineer on 27 May 2015, wherein it is stated that the Bhama Askhed Project is completed and they do not have funds in the treasury account to acquire land. However, a copy of the said Notification is not placed on record by the learned counsel for the Petitioner. It is clear from the affidavit-in-reply filed by the SLAO that pursuant to the Award passed on 30 May 2004, neither the compensation of the Petitioner's land has been taken nor the compensation has been paid. The principle of law laid down by the Apex Court in the case of in the case of ***Indore Development Authority Vs. Manoharlal and Ors. (Supra)*** squarely applies to the facts of the present case.

5 The learned counsel for the Petitioner submits that after a period of almost 10 years after passing of the Award, mutation entry no.6558 is effected on 26 June 2014, in the revenue record in respect of the Petitioner's land and seeks deletion of the said revenue entry.

6 We find that the acquisition proceedings in respect of the land admeasuring 58 Ares from and out of land bearing Gat No.1152,

admeasuirng 1 Hectare 88 Ares situated at Mouje Markal, Taluka–Khed, District–Pune, has lapsed, in view of the provisions of Section 24 (2) of the said Act of 2013 and in the light of the judgment of the Apex Court in the case of *Indore Development Authority Vs. Manoharlal and Ors. (Supra)*.

7 As far as the deletion of the mutation entry no.6558 is concerned, the learned AGP submits that a review committee has been constituted and as per Government Resolution dated 5 August 2019, procedure has been laid down to delete the revenue entry from other rights column and it would be the committee to take necessary action. We, accordingly, pass the following order:

:: **ORDER** ::

- (i) Writ Petition is allowed in terms of prayer clause (b);
- (ii) Office of the Government Pleader to forward the copy of this Petition which will be placed in the meeting of the review committee to be held next after passing of this order and necessary decision

will be taken within a period of eight weeks from the date of receipt of copy of the Petition from officer of Government Pleader, which will be informed to the Petitioner;

(iii) Writ Petition, is accordingly, disposed of.

SHARMILA U. DESHMUKH, J.

NITIN JAMDAR, J.