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

WRIT PETITION NO.2873 OF 2021

Shankar Zumbarrao Dhanavate
and Ors.

.... Petitioners

Vs.

The State of Maharashtra and Ors.

..... Respondents

Mr.Kadam Vaibhav Dhondiram a/w Ms.Kanchan S. Zire a/w
Mr.Abhimanyu Govardhan for the Petitioner

Mr.Avinash Bhaskar for the Respondent nos.4 and 5

Smt.A.A.Purav, A.G.P. for the State

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

DATED : MARCH 31, 2022

P.C.

. Heard.

2. The learned counsel for the Petitioners strenuously contends that though the possession of the petitioners' land were taken way back in the year 1964 and 1968, the total amount of compensation is not paid to the ancestors of the Petitioners and even to the Petitioners.

3. The learned counsel for the petitioners submits that the 7/12 extract was closed in the year 1972. They are re-opened in the year 2019 thereby impinging upon the right of

the Petitioners. The learned counsel for the Petitioners submits that even by the letter dated 09.02.1970 Special Land Acquisition Officer has communicated that part of the amount has not been paid to the ancestors of the Petitioners.

4. The learned counsel for the petitioners submits that as entire amount of compensation is not paid, the award stands lapsed. Even otherwise, petitioners are entitled to the amount of compensation as per the award. The learned counsel for the petitioners further submits that rental compensation is also not paid to the Petitioners.

5. We have also heard the learned A.G.P.

6. It appears that the prededessors of the Petitioners have filed reference under section 18 of the Land Acquisition Act for enhancement of compensation. The said reference is referred to the District Court under communication dated 09.08.1968. In the said reference, it has been observed that amount of compensation is withdrawn by the claimants under protest. There is no dispute that the possession has been taken by the Respondents under possession receipts. Award is also passed.

7. In view of the reference filed by the predecessors of the present Petitioners under section 18 of the Land Acquisition Act, parties certainly would have acted upon judgment that may have been delivered by the District

Court in the reference under section 18.

8. It would not be possible in writ jurisdiction of this court to arrive at a conclusion as to the amount of compensation received by the Petitioner and / or paid by the Respondents.

9. As far as rental compensation is concerned, the same is entitled to if possession is taken prior to the issuance of notification under section 4 of the Land Acquisition Act @ 8% till the award is passed. The same has to be necessarily established before the Special Land Acquisition Officer.

10. In view of the above, Writ Petition is disposed of. No costs.

(VINAY JOSHI, J.)

(S.V.GANGAPURWALA, J.)