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

WRIT PETITION NO. 4644 OF 2021

Jaywant Rambhau Thorve and Ors.

... Petitioners

Versus

The State of Maharashtra and Ors.

... Respondents

Mr. Manoj A. Patil for the Petitioners.

Mr. Rajan S. Pawar, AGP for the State-Respondents.

CORAM: R. D. DHANUKA AND

S. M. MODAK, JJ.

DATE : 19th JANUARY, 2022

(Through Video Conference)

P.C. :-

. Rule. Mr. Pawar, learned AGP waives service for the respondents. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners pray for declaration that the Acquisition Proceedings/Award dated 1st March, 2004 in respect of the petitioners' land admeasuring 32 R of Gat No. 260 (Part) and land of 4 Hector 60 R of Gat No. 476 (Part) situated at Mouje Charoli Khurd, Tal. - Khed, Dist. - Pune, stands lapsed as per provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. Mr. Patil, learned counsel for the petitioner invited our attention

to the averments made by the State Government in the Affidavit-in-reply dated 3rd March, 2021 and more particularly in paragraphs 9 and 10. He also placed reliance upon paragraphs 366.1 and 366.9 of the judgment of the Hon'ble Supreme Court in case of ***Indore Development Authority v/s. Manoharlal and Ors., (2020) 8 SCC 129*** and would submit that the issue involved in this petition is no longer *res-integra* in view of the said judgment of the Supreme Court.

4. Mr. Pawar, learned AGP for the respondents also fairly invited our attention to the paragraphs 9 and 10 of the affidavit-in-reply filed by the respondents. It is submitted that the land in question was acquired for Maharashtra Krishna Khore Development Corporation and thus the said Authority will have to be impleaded as a party respondent to this petition.

5. A perusal of the records indicate that the State Government as well, the Special Land Acquisition Officer and the District Collector are already impleaded as respondents who had acquired the land on behalf of the Maharashtra Krishna Khore Development Corporation. There is thus no substance in the submission of the learned AGP.

6. Learned AGP could not distinguish the judgment of the Supreme Court in case of ***Indore Development Authority*** (supra). In our view, in view of the admitted position that the land acquisition award was made on 1st March, 2004 under the provisions of Land Acquisition Act, 1894 and the fact that the respondents could not issue any notice under Section 12(2) of the said Act till today and has not taken the possession

of the said land, the acquisition proceedings have lapsed. The judgment of the Supreme Court in case of ***Indore Development Authority*** (supra) would squarely apply to the facts of this case.

7. We therefore pass the following order :-

- (a) Writ Petition is allowed in terms of prayer clause (b). Rule is made absolute accordingly. There shall be no order as to costs.
- (b) Parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]

[R. D. DHANUKA, J.]