

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

WRIT PETITION NO. 554 OF 2021

Nitin Chhaganlal Jain .. Petitioner

Versus

The State of Maharashtra, Through
Additional Chief Secretary Revenue
and Forest Department and Others. .. Respondents

**WITH
WRIT PETITION NO. 553 OF 2021**

Ashok Bhagwant Gore and Others .. Petitioners

Versus

The State of Maharashtra, Through
Additional Chief Secretary Revenue
and Forest Department and Others. .. Respondents

**WITH
WRIT PETITION NO. 636 OF 2022**

Bhanudas Sopan Pawar and Others .. Petitioners

Versus

The State of Maharashtra, Through
Additional Chief Secretary Revenue
and Forest Department and Others. .. Respondents

Mr. Balwant V. Salunkhe, Advocate for the Petitioners.
Mr. A. I. Patel, AGP for the Respondent-State.

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

DATE : 17th MARCH, 2022.

P.C:

. The contention of the Petitioners is that the award passed in respect of writ land on 31st December, 2003 stands lapsed.

2. The learned Counsel for the Petitioners contends that the award is passed on 31st December, 2003, the possession of the acquired land is not taken by the Respondents nor the compensation amount is paid. In view of Sub-section 2 of Section 24 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, award stands lapsed. The acquisition stands lapsed.

3. The learned Counsel relies upon the order of the Division Bench of this Court in Writ Petition No. 1370 of 2018 dated 08th January, 2019. In the said case, the land Gat No. 13 was acquired under the same award dated 31st December, 2003. The learned Counsel for the Petitioners submits that in the present case, the land Gat Nos. 66, 23 and 12 may also be released from the acquisition.

4. The learned Counsel further submits that the proposal is already moved to the Government for abandoning the project for which the land

was acquired. In view of that also the Respondents would not now require land. The final decision of the government is awaited. The proposal is already pending with the Government.

5. The learned AGP submits that notice under Section 12(2) of the Land Acquisition Act was issued to the land holders on 06th August, 2009. The amount of compensation was not accepted. The amount of compensation was deposited in PLA account. The possession notice was also issued to the land owners. However, they obstructed the possession. Panchnama to that effect is also drawn.

6. The issue is no longer res-integra. The Apex Court in the Case of **Indore Development Authority V/s. Manoharlal & Others** reported in **(2020) 8 SCC 129** has interpreted provisions of Section 24 (2) of the Rights to Fair Compensation Act, 2013 and has observed that if both the conditions specified in Section 24 (2) are (A) Possession of the acquired land has not been taken and (B) Compensation has not been paid, then only the acquisition proceedings under the 1894 Act would lapse. The word 'or' has been interpreted as 'nor' or as 'and'. As per the said judgment of the Apex Court if possession is taken or compensation is paid, then the acquisition under old Act would not lapse.

7. The Apex Court has also interpreted the expression 'pay' appearing in Sub-section 2 of Section 24 of the Act, 2013. The word 'pay' does not

include a deposit of compensation in the Court. The non deposit of compensation in the Court does not result in the lapse of land acquisition proceedings. It has further observed that in case a person is tendered the compensation as drawn in the Section 31(1) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under Section 24 (2) due to non payment or non deposit of compensation amount.

8. In the present matter, the notice was issued to the original land owners under Section 12 (2) for accepting the compensation amount. It appears that original land owners did not accept the same. Thereafter according to the Respondents, the same is deposited in PLA account. In view of that the acquisition proceedings would not lapse under Section 24 (2) of the Act, 2013.

9. In case the Respondents have disbanded the project, it is open for the Petitioners to approach the Government and the Government may take decision in that regard as may be permissible under law.

10. Writ Petitions are disposed of accordingly.

(VINAY JOSHI, J.)

(S. V. GANGAPURWALA, J.)