

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

WRIT PETITION NO.5897 OF 2021

Shivaji Shamrao Patil Decd. Thr. Lhr.
Smt.Ranjana Shivaji Patil and Ors. Petitioners

Vs.

The Special Land Acquisition Officer
No.14, Kolhapur and Ors. Respondents

Mr.Sudhir Sadavarte for the Petitioners

Mr.R.S.Pawar, A.G.P. for the State

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

DATED : APRIL 8, 2022

P.C.

. Heard.

2. The Petitioner is assailing the mutation entry no.6716 dated 19.02.2020 in respect of gut no.255 situated at Village Khochi, Tauka Hatkanangale, District Kolhapur.

3. The undisputed facts are that the award in respect of the writ land was passed on 05.02.1988. It is submitted by the learned counsel for the Petitioner that since 05.02.1987, stay was operating in favour of the Petitioner against the Respondents from taking over possession. In Writ Petition

No.690 of 1987 eventually, on 13.01.2004, this Court directed the Commissioner to rework the holding of Petitioner for deciding how much land, if any, is to be acquired. The Court directed parties to maintain status quo. The petitioner it appears that filed another Writ Petition No.1967 of 2012 challenging the award. The said Writ Petition came to be dismissed under order dated 29.01.2014. The Petitioner filed Special Leave Petition before the Apex Court bearing Civil Appeal No.6357 of 2017. The Apex Court under its judgment and order dated 04.05.2017 allowed the Special Leave Petition declaring that the acquisition proceedings have lapsed.

4. The Respondents were granted period of one year to exercise powers under section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Subsequently, on or about 19.02.2020 without notice to the Petitioner, the mutation entry is effectuated in the name of the Collector and Deputy Director, Project Rehabilitation, Kolhapur bearing mutation entry no.6716.

5. It is tried to be contended by the learned A.G.P. that amount of compensation is deposited in the PLA account as said acquisition does not lapse.

6. The learned A.G.P. placed reliance on the judgment of the Apex Court in the case of *Indore Development Authority vs. Manoharlal & Ors.*¹

¹ (2020) 8 SCC 129

7. It would appear that inter parties judgment of the Apex Court declaring that the acquisition stands lapsed, has become final. The same would operate as res judicata between the parties. Though the principle of res judicata may not apply to the Writ Petition, the principle analogous to res judicata applies. As judgment inter parties has become final and the Apex Court has declared acquisition as lapsed, the subsequent judgment of the Apex Court in the matter of *Indore Development Authority (Supra)* may not apply to the present case.

8. Moreover, the mutation entry is effectuated even without notice to the Petitioner. On the said count also, mutation entry cannot survive.

9. In the light of the above, Rule is made absolute in terms of prayer clause (b).

(VINAY JOSHI, J.)

(S.V.GANGAPURWALA, J.)