

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1202 OF 2023

SAJEDA SHAIKH BILAL SHAIKH THROUGH HER
POA HOLDER SONJAMIL BILAL SHAIKH
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
CHIEF SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Rupeshkumar C. Bora
AGP for Respondents: Mr. S.J. Salgare
...

**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 31.01.2023

PER COURT :

The petitioners are coming with following prayers :

- “A. To allow the writ petition.
- B. By way of issue of writ of Mandamus, order or directions in the like nature, to the erring respondents may please be directed.
- (1) to consider the compensation claim afresh in accordance with the provisions of the newly enacted ‘Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013’, and for that the respondents be directed to revoke/cancel the award passed earlier, In addition
- (2) to return the same acquired land, as the same is lying in the state of abandoned land, or
- (3) to grant rehabilitation accommodation in the alternative land on the same site, which is available even after the sanctioned (reconstruction of old Bus Stand) plan, by Nagar road side only,
- (4) also to grant all the other reliefs & benefits, whichever are being given to a project affected persons.

- C. Till the pending hearing and final disposal of the present writ petition, the respondents may please be directed to stop the ongoing construction / development activities on the subject land.
- D. To grant any other suitable and equitable relief, for which the petitioner would be entitled in the peculiar circumstances of the case and in the interest of justice.”

2. We have heard the learned advocate for the petitioner and the learned AGP. The petitioner complains that the amount of compensation of Rs.130/- that was determined while acquiring the property during the life time of her father-in-law way back in the year 1955 has not been paid. The claim is indeed barred by delay and laches.

3. So far as the request for return of the land which is acquired on the ground that it has been inundated is also no more *res integra* in view of the decision of this Court in the matter of **Raghunath Abajirao Shinde (Lt. Co.) and Ors. Vs. The State of Maharashtra and Ors.**; 2003(2) B.C.R. 469. It has been specifically observed while quashing the Government Resolution holding the land owners to be entitled to claim back the land if it remains unutilized that the land cannot go back to the land owners and can only be disposed of by an auction.

4. The learned advocate for the petitioner relies upon the decision of the Supreme Court in the matter of **Sukh Dutt Ratra and Anr. Vs. State of Himachal Pradesh and Ors.**; (2022) 7 SCC 508 to buttress his submission that the delay and laches cannot be the ground for denying the owners of the land a claim for compensation.

5. Suffice for the purpose to refer to the observations in paragraph No.26 of the judgment which clearly indicate that the Supreme Court was invoking the powers under Articles 136 and 142 of the Constitution, while considering the delayed claim.
6. The Writ Petition is dismissed in limine.

(S.G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)