

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

902 WRIT PETITION NO.4108 OF 2017

CHANDRAKANT NARHARRAO DHARURKAR & ANR. ... Petitioners

VERSUS

THE STATE OF MAHARASHTRA & ORS. ... Respondents

...

Mr. N. K. Tungar, Advocate for the Petitioners

Mr. S. B. Yawalkar, AGP for the Respondents/State

Mr. M. N. Navandar, Advocate for Respondent No.4

...

**CORAM : NITIN W. SAMBRE &
S. G. CHAPALGAONKAR, JJ.**

DATE : 14.03.2023

PER COURT :

1. The petitioners claim to have purchased the property on 26th September, 2008 which consists of the agricultural plots in a layout. Pursuant to the said purchase deed, the petitioners are claiming that the Revenue Authorities have taken note of the same and effected mutation entries. According to the petitioners, respondent has issued a notification under Section 4 of the Land Acquisition Act, 1894 [hereinafter referred to as 'the Act' for short] on 4th February, 2009 i.e. subsequent to the aforesaid transaction and the award came to be delivered in 2011. Having noticed that the petitioners are not paid the compensation, it is the contention that they have raised an objection to the Revenue Authorities asking for the compensation, which is paid to the original land owner i.e. predecessor in title of the petitioners as such this petition. In the background of the aforesaid facts, the prayer of the petitioners is for grant of compensation under the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013 [hereinafter referred to as 'the Act, 2013' for short] and setting aside of the award delivered under Section 11 of the Act.

2. The award came to be delivered on 18th August, 2011, subsequent to which, the petitioners claim to have approached before the Land Acquisition Officer seeking release of amount of compensation.

3. As such, the contentions are : (a) the petitioners who are lawful owner are since not paid compensation for their land being acquired, the acquisition lapses and as such, the award dated 18th August, 2011 is null and void and as such, the authority should take recourse to the fresh acquisition proceedings.

4. Mr. Navander, learned counsel for respondent No.4, so also the learned AGP would oppose the prayer. The contentions are that the fact of passing of award dated 18th August, 2011 was well within the knowledge of petitioners and the petition is preferred almost after a delay of five years. It is further claimed that the transaction in question is hit by the provisions of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 [hereinafter referred to as 'the Act, 1947'] and as such, the petitioners cannot claim the ownership over the property in question. As such, according to the respondents, the compensation was rightly released in favour of predecessor in title of the petitioners.

5. We have appreciated the aforesaid submissions.

6. The petitioners from the record have demonstrated that they have purchased the property on 26th September, 2008, pursuant to which, the revenue entry was effected in their name. The revenue entries specifically state that though the petitioners have purchased the plots in question, there

is no NA permission and as such, what has been purchased by the petitioners is the agricultural land. Such transaction is as such hit by the provisions of the Act, 1947.

7. Apart from above, the fact remains that the award was declared on 18th August 2011, where-after the petitioners have approached the Land Acquisition Officer on 11th January, 2012 seeking release of compensation in their favour. Subsequent thereto, i.e. after 11th January, 2012 till the filing of this petition i.e. 2017, the petitioners have not taken any steps in the matter either by filing a suit for injunction against the predecessor in title or against the acquiring body. As such, even if the claim of the petitioners are considered based on their title deed, the claim in the petition for release of compensation is time barred. Merely because, the petitioners subsequent to the passing of the award have preferred representation that by itself will not bring the claim of the petitioners within limitation.

8. In view of above, no case for showing indulgence is made out. The writ petition is dismissed.

9. However, the dismissal of petition will not come in the way of the petitioners in taking out such other proceeding as shall be permissible and available in law.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)