

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4750 OF 2019

Sadashiv Vishnu Chopade & Ors ..Petitioners

Versus

The State of Maharashtra & Ors ..Respondents

ANJALI TUSHAR ASWALE
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Date: 2023.08.18 15:01:13 +0530

Mr.Pandit Kasar, Advocates for the Petitioners.

Mrs.M. S. Bane, AGP, for the Respondent/State.

Mr.Sachin Gite, Advocates for Respondent No.5.

***Mr. Nagnath Khadtare, Dy. Engineer Water Resources
Dept Sina Madha Project, Sub-division No.2 Bhima Nagar
is present.***

**CORAM : B. P. COLABAWALLA, J &
M. M. SATHAYE, JJ.**
DATE : AUGUST 1, 2023

P.C.

The present Petition is filed seeking a direction to the Respondent Authorities to pay compensation to the Petitioners as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act, 2013 (for short the “**2013 Act**”) for acquisition of their land bearing Gat No.109/3, Gat No.138/8/A, Gat No.109/2, Gat No.138/8/B, Gat No.109/4, Gat No.138/9, Gat

No.146, Gat No.131, Gat No.132/2 situated at Mouje Mahadevwadi, Tal. Madha, Dist. Solapur (for short ***“the said lands”***) in respect of Award bearing No. SR-22/1998 dated 6/6/2012.

2 It is not in dispute that the Award has been passed in the year 2012. Under Section 24 (1) (b) of the 2013 Act, it is stipulated that notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 where an Award under Section 11 has been made, then, such proceedings shall continue under the provisions of the said Land Acquisition Act as if the said Act has not been repealed. Section 24 (2) of the 2013 Act stipulates that notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an Award under the said Section 11 has been made five years or more prior to the commencement of the 2013 Act but the physical possession of the land has not been taken and compensation has not been paid, the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate proceedings for such land acquisition afresh in accordance with the provisions of the 2013 Act. The proviso to

Section 24 (2) stipulates that where an Award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of the 2013 Act.

3 When we read Section 24 as a whole, it is clear that in the present case, since the Award is passed in the year 2012, the case of the Petitioners would be covered under Section 24 (1) (b). Once this is the case, the Petitioners would not be entitled to compensation under the provisions of the 2013 Act. In these circumstances, we find that the reliefs therefore claimed in the present Petition are wholly misconceived.

4 Having said this, we find that the Petitioners would still be entitled to compensation under the provisions of the Land Acquisition Act, 1894. This has not yet been paid to the Petitioners for acquisition of their lands. The learned counsel appearing for the Acquiring Body (Respondent No.5), on instructions of Mr. Nagnath Khadtare, Dy. Engineer who is present in Court, has stated that the compensation payable to the

Petitioners along with interest shall be deposited by the Acquiring Body with the State Authorities within a period of eight weeks from today. The said statement is accepted as an undertaking given to the Court. Once the amount is deposited with the State, the State shall, within a period of six weeks from the date of deposit, disburse the compensation to the Petitioners in accordance with law. It is clarified that the Petitioners' entitlement is not in dispute.

5 The Writ Petition is accordingly disposed of. No order as to costs.

6 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M. M. SATHAYE, J.]

[B. P. COLABAWALLA, J].