

IN THE HIGH COURT OF JUDICATURE AT BOMBAYKANCHAN
VINOD
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KANCHAN VINOD
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Date: 2023.01.20
10:52:44 +0530***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 228 OF 2022****Baban Maruti Patil & Ors.****..... Petitioners****VERSUS****The Collector,
Thane District & Ors.****..... Respondents**

Mr.Akash D.Warang for the Petitioners.

Ms.Kavita N.Solunke, A.G.P. for the State – Respondent nos. 1 to 5.

Mr.T.J.Pandian for the Respondent nos. 6 to 8.

CORAM: R. D. DHANUKA AND**M.M. SATHAYE, JJ.****DATE : 18TH JANUARY, 2023****P.C:-**

By this petition filed under Article 226 of the Constitution of India, the Petitioners have prayed for writ of certiorari to quash and set aside the land acquisition award annexed at Ex.F collectively and certificate at Ex.G collectively and for other reliefs.

2. According to the Petitioners, the cause of action pertaining to the subject matter arose on 21st March, 2019 and 25th August, 2020 when the Respondent no.8 attempted to claim the said land based on alleged awards, certificate and the acquisition proceedings that were already

alleged to have been lapsed. The Petitioners claim to be the joint owners of certain pieces and parcels of the land situated at Mauje Narivli, Taluka and District Thane and claim to be the farmers.

3. The writ petition is filed on the premise that neither the possession of the writ property has been taken by the acquiring body nor any payment of compensation is made. Per contra, it is the case of the Respondent no.8, in the affidavit in reply that the award was made by the Special Land Acquisition Officer dated 10th November, 1965 in respect of the writ property and two other properties.

4. The Respondent no.8 has also placed reliance on two certificates showing the handing over the possession of the writ property to the Executive Engineer (Construction), Central Railway, Panvel. These documents are annexed by the Petitioners to the writ petition itself. It is the case of the Petitioners that no notification under Sections 4 and 6 are issued by the Special Land Acquisition Officer before making an award.

5. Insofar as the possession of the land in question is concerned, we

are inclined to accept the submission made by Mr.Pandian, learned counsel for the Respondent no.8 that, unless the possession of the property would have taken by the Special Land Acquisition Officer from the land owner, possession would not have been handed over to the Executive Engineer (Construction), Central Railway, Panvel. The award is of the year 1965 whereas the writ petition is filed by the Petitioners impugning the said award only on 24th February, 2021, almost after 55 years.

6. Insofar as the payment of compensation is concerned, the Respondent no.8 has already deposited the amount of compensation with the Special Land Acquisition Officer. The Special Land Acquisition Officer has disbursed the compensation amount amongst the land owners whose names were reflected in the award. The Petitioners even otherwise have not explained the gross delay of more than 55 years.

7. We are thus not inclined to accept the submission made by the learned counsel for the Petitioners that the acquisition proceedings have lapsed because the possession was not alleged to have been taken

over from the Petitioners or their predecessor or that the compensation has not been paid after 1st April, 2014. Writ petition is devoid of merits and is accordingly dismissed. No order as to costs.

[M. M. SATHAYE, J.]

[R. D. DHANUKA, J.]