

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10895 OF 2015

Krishnat Shankar Patil

..Petitioner

V/s.

State of Maharashtra and Ors.

..Respondents

Mr. Rahul Walvekar for the Petitioner.

Ms. Kavita Solunke, AGP for the Respondent Nos. 1 to 3.

Mr. Pradeep Dalvi for Respondent No.4.

CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.

DATE : 19th JANUARY 2023

P.C.

. By this petition filed under Article 226 of the Constitution of India, the Petitioner has prayed for a declaration that the acquisition of writ property as described in prayer clause (b) of the petition stands lapsed and the land be reverted back to the Petitioner.

2. The Petitioner is a legal heir of the deceased Balakabai Shankar Patil, who had certain share in the writ property which was acquired by the State Government under the provisions of Land Acquisition Act, 1894. The said Balakabai Shankar Patil expired on 15.08.1980. On 03.01.1991, the notification under

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Section 4 of the said Act was issued in respect of the writ property. On 02.04.1992 declaration under Section 6 of the said Act was issued by the Special Land Acquisition Officer. On 06.09.1993, the Land Acquisition Officer has made an Award in respect of various properties including writ property i.e. part of Survey No. 227 admeasuring 2 Hectares 02 Ares. Respondent No.4 was a Project Affected Person and was allotted this writ property. Respondent No.4 was handed over the possession of the writ property as Project Affected Person in 1997. Name of Respondent No.4 was entered into revenue record by a mutation entry. The Petitioner has claimed to be son of the said deceased Balakabai and applied for the information regarding this plot under the provisions of the Right to Information Act on 02.01.2015. The possession of the writ property was taken by the Special Land Acquisition Officer and it was found that none of the legal heirs of the said deceased was present at the time of taking possession.

3. The Petitioner filed this Writ Petition on 23.09.2015 *inter alia* praying for a declaration that the acquisition proceedings in respect of the writ property has lapsed.

4. Mr. Walvekar, the learned counsel for the Petitioner invited our attention to the death certificate of the said deceased and the possession receipt stating that none were present on behalf of the

legal heirs of the said deceased at the time of taking possession. He submitted that since the said deceased - mother of the Petitioner had already expired much prior to the date of the award and even before the issuance of notification under Section 4 and Section 6 of the Land Acquisition Act, 1894 the Award rendered by the Special Land Acquisition Officer is *void ab initio*.

5. The learned counsel for the Petitioner submitted that his client was staying in same village and came to know about the said Award much later. He submitted that the notifications under Section 4 and Section 6 were also issued to a dead person. He informed this Court that his client was about 45 years old at the time of filing this Writ Petition in the year 2015.

6. The learned counsel for the Respondent No.4, on the other hand vehemently opposed this petition on the ground that the relation of Petitioner with the said deceased, as a son, itself is disputed. He submitted that in any event on the date of issuance of notification under Section 4 and declaration under Section 6 of the Land Acquisition Act by the Special Land Acquisition Officer, the Petitioner was already major and could have taken objection in respect of the acquisition of the writ property. He submitted that the name of Respondent No.4 was already entered into mutation record way back in the year 1997, whereas Writ

Petition is filed in the year 2015 after a period of 18 years without explaining delay in filing the Writ Petition.

7. The learned counsel invited our attention to prayer clause (a) to the petition and vehemently urged that the Petitioner seeks a declaration that the acquisition proceedings have lapsed in view of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. He submitted that no conditions are satisfied for the purpose of declaring that acquisition proceedings are lapsed. The possession of the writ property was taken within two years from the date of declaring of an award and there after was handed over to Respondent No.4.

8. The learned AGP for the State placed reliance in the averment made in the Affidavit-in-Reply filed by Respondent No.1 on 20.02.2019 and submitted that possession of the property was already taken on 14.06.1995 vide Kabjepatti-panchnama and handed over to the Circle Officer, Dudhganga Project, District Resettlement Office, Kolhapur on the same day. The legal heirs of the said deceased Balkabai did not come forward for collecting compensation in pursuance of the notice issued under Section 12(2) of the Land Acquisition Act and the said amount was deposited in the Revenue Deposit.

9. The learned counsel for the Petitioner in his rejoinder arguments could not dispute that on the date of issuance of notification under Section 4 and declaration under Section 6 of the Land Acquisition Act, his client had already become major. The Petitioner never applied for recording his name in the revenue record, nor raised any objection in response to the notification issued under Section 4 and declaration under Section 6 of the Land Acquisition Act nor applied for hearing under Section 5(A) of the Land Acquisition Act. The award was already made far back on 06.09.1993 much after the Petitioner having attained the age of majority. The Petitioner did not challenge the said Award till 2015. In the meanwhile, after taking possession of the writ property by the Special Land Officer, the possession thereof was handed over to the Circle Officer, Dudhganga Project on the same day on 14.06.1995. The possession was thereafter handed over to the Respondent No.4 as a Project Affected Person, who is in possession since then.

10. Even if the date of revenue entry in the name of Respondent No.4 is considered, the Petitioner has not filed this Writ Petition for more than 18 years from the date of such entry. The Petitioner has not explained long delay in filing the Writ Petition. The rights are already accrued in favour of third party - Respondent No.4 who is in possession of the writ property as Project Affected Person and whether the Petitioner is the legal

heir of the deceased Balakabai itself is doubted by Respondent No.4.

11. Be that as it may. In view of the gross unexplained delay on part of the Petitioner and in view of the fact that rights are already vested in Respondent No.4 as Project Affected Person who is in settled possession, we are not inclined to interfere with the Award in question.

12. Writ Petition is devoid of any merits and is accordingly, dismissed. No order as to costs.

M.M.SATHAYE, J.

R.D.DHANUKA, J.