



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 723 OF 2024

1. Nagorao s/o. Sitaram Kulkarni
Age:- 88 years, Occ.:- Agriculture,
R/o. Khasgaon, Tq. Jafrabad,
Dist. Jalna.
2. Pralhad s/o. Dattatray Kulkarni
Age:-76 years, Occ.:- Retired,
R/o. Khasgaon, Tq. Jafrabad,
Dist. Jalna.
3. Sharad s/o. Dattatray Kulkarni
Age:- 73 years, Occ.:- Retired,
R/o. 231, G-1 Sector, Triveni Nagar,
N-7, CIDCO, Dist. Aurangabad.
4. Aruna w/o. Pandurang Bhalerao
Age:- 64 years, Occ.:- Housewife,
R/o. Flat No.8, Udyogdeep Apartment,
Khivansara Park, Dist. Aurangabad.
5. Purushottam s/o. Dattatray Kulkarni
Age:- 59 years, Occ.:- Agriculture,
R/o. Khasgaon, Tq. Jafrabad,
Dist. Jalna.
6. Narayan s/o. Digambar Kulkarni
Age:- 69 years, Occ.:- Agriculture,
R/o. Khasgaon, Tq. Jafrabad,
Dist. Jalna.

... PETITIONERS

V/s.

1. The State of Maharashtra
Through Collector, Jalna.
2. Divisional Commissioner,

Office of Divisional Commissioner
Aurangabad.

3. The Collector,
Office of Collector, Jalna.
4. The Collector,
Office of Collector, Aurangabad.
5. Sub-Divisional Officer,
Jalna, Dist. Jalna.
6. The Tahasildar,
Office of the Tahasil, Jafrabad
Tq. Jafrabad, Dist. Jalna.
7. The Special Land Acquisition Officer,
Office of the S.D.O., Bhokardan,
Dist. Jalna.

... **RESPONDENTS**

...
Mr. G. S. Shete, *Advocate for the Petitioners*
Mr. P. K. Lakhotiya, *AGP for Respondent-State*
...

**CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRADE, JJ.**

RESERVED ON : 22nd January, 2024

PRONOUNCED ON : 5th February, 2024

JUDGMENT (Per: Y. G. Khobragade, J.) :-

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.
2. By the present petition, the Petitioners put-forth prayer Clause-B as under:

“B. By issuing the writ of Mandamus or any other appropriate writ, order or direction in the like nature be issued to the Respondents to pay Fair Compensation with interest along with all ancillary benefits provided under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for the land Adm. 03 Hector 25 R of Gut no. 488 situated at village Khasgaon, Tq. Jafrabad, Dist. Jalna to the Petitioners.”

3. Shri Shete, the learned counsel appearing for the Petitioners in vehemence canvassed that, the Petitioners having ancestral land bearing old Survey No.181 (New Gat No. 488), ad-measuring 3 H 25 R. In the year 1959-60, mutation entries of said land were standing in the names of Shri Dattatray Sitarampant Kulkarni, Narayan Digambar Kulkarni (Petitioner No.6) and Nagarao Sitaram Kulkarni (Petitioner No.1). Prior to 1959-60, the Respondent State Government initiated proceeding for acquisition of their land for extension of Gavthan. In the year 1955, the office of Land Records mistakenly shown acquisition of the Petitioners' land Survey No.97 for extension of Gavthan on the directions of Respondent No.3-Collector. According to the petitioners, the Special Land Acquisition Officer-Respondent No.7, did not initiate land acquisition proceeding and acquired their land ad-measuring 3 H 25 R out of Gut No.488. It is further submitted that, though the land has been acquired in the year 1955, the Respondent No.6 Tahsildar effected Mutation Entry No. M.E. No.369 in 7/12 extract on 18.12.1989, but no compensation

have been paid. Therefore, on 03.08.2006, they submitted representation with the Respondent Nos. 2 to 7. Accordingly, the Respondent No.2 - Divisional Commissioner issued a communication dated 18.08.2006 and directed Respondent no. 3 to submit a status report in respect of grievance of the Petitioners, but effective steps were not taken. Ultimately, the Petitioners issued a legal notice dated 12.11.2016 under Section 80 of the Code of Civil Procedure to the Respondent/Authorities and called upon them to pay compensation for the acquired land as per the market rate under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Thereafter, again on 16.08.2016, 24.05.2022 and lastly on 04.09.2023, the Petitioners submitted representation with the Respondent No.3-Collector and prayed for compensation, but till date no compensation have been paid.

4. The learned advocate for the Petitioners canvassed that, right to property is a constitutional right under Article 300-A of the Constitution of India and as such the Petitioners' ancestral land was acquired by the Respondents without payment of compensation, therefore, the petitioners are deprived from enjoyment of fruits of their land, livelihood and fundamental right of the Petitioners is violated and great miscarriage of justice caused to the Petitioners.

5. In support of these submissions, the learned advocate appearing for the Petitioners placed reliance on the judgment dated 05.01.2024 passed by the Division Bench of this Court at Principal Seat (Coram: B.P. Colabawalla & Somasekhar Sundaresan, JJ.) in **Writ Petition No.1430/2022, Rajiv Kumar Damodarprasad Bhadani and Ors. V/s. The Executive Engineer, Maharashtra State Electricity Distribution Company Limited (MSEDCL) and Ors.**, wherein it was observed in Para Nos. 63 to 65 as under:

“63. Consequently, it is apparent that the prime argument on merits ie. that electricity law has overtaken land acquisition laws and there is no need to pay any compensation for land acquisition towards construction of sub-stations is misconceived. For the reasons set out above, it is also clear that there is no reasonable dispute about the identity of the Subject Land and about whether possession of the Subject Land had in fact come from MHADA rather than Respondent No. 2. We have also already explained why it is appropriate not to treat this Writ Petition as one being unworthy of consideration on merits, on the ground of delays and laches.

64. Therefore, for the Subject Land having been taken over and constructed upon without any compensation having been paid, and without even a notification for land acquisition and consequential award of compensation, either under the Land Acquisition Act or the MRTP Act, we would need to consider what appropriate remedy would follow. In our considered opinion, the position that emerges is that even a specific piece of legislation has not been selected by the State for exercise of powers of land acquisition. The State's officers' discussions about whether the acquisition ought to be under the MRTP Act, or the Land Acquisition Act or both, are part of the record. The record points to the fact that the State was indeed aware of the need to pay compensation in compliance with law, but has not done so. The material on record also clearly brings out that the possession of the land was directly

taken by the MSEB but the State was conscious that it ought to pay compensation. It is noteworthy that Respondent No. 3 has not filed any affidavit throughout the journey of these proceedings while Respondent No. 1 has filed four affidavits with wide-ranging contentions to resist the payment of compensation.

65. For the reasons set out above, we find that the Petitioners have indeed made out a case for compensation for the land handed over to Respondent No. 1. At this distance of time, there can be no question of vacating the Subject Land and handing it over to the Petitioners as prayed in prayer clause (a) in Paragraph 35 of the Writ Petition, which we reject. Multiple stakeholders have an interest in the use to which the Subject Land has been put, and there can be no question of granting such relief.”

6. Per contra, the learned AGP has canvassed that, the Petitioners allege that the State Government acquired their land in the year 1955, but no compensation has been paid. However, the Petitioners have not explained the delay to approach this court seeking compensation after lapse of more than 68 years from the date of acquisition of the land. Merely, the Respondent No.6 Tahsildar effected Mutation Entry No. M. E. No.369 in 7/12 extract on 18.12.1989, which does not create any right in favour of the petitioners, because the mutation entries in revenue record are only for fiscal purpose and they do not confirm the title over the property. Further, merely the petitioners submitted the Representation on 03.08.2006 with the Respondents authorities and issuance of communication dated 18.08.2006 by the Respondent No.2 - Divisional Commissioner, does not create any cause of action. Hence, claim of the petitioners is hopelessly barred by the law of limitation. Therefore, the

Petitioners are dis-entitled for claiming compensation in lieu of acquisition of the land. So also, on 26.10.2010, the State Government issued a Government Resolution that, if the State Government acquires the land and the land owners seek compensation after lapse of huge period, it would be presumed that the land owners relinquish their right in favour of the State Government. Since, the petitioners approached this court after lapse of 68 years from the acquisition of the land, therefore, the petitioners claim for compensation is hopelessly barred by law of limitation. Hence, prayed for dismissal of the petition.

7. Needless to say that, the Petitioners are allegedly owners of their ancestral land bearing old Survey No.181 presently Gut No.488 ad-measuring 3 H 25R. The Petitioners claim that, in the year 1955 the Government acquired their land for extension of Gavthan, but no compensation have been paid to them till date. Further, though the State Government acquired their land in the year 1955, but mutation entry No. 369 has been taken by the Respondent No.6-Tahsildar on 18.10.1989. It is settled principle of law that, the mutation entries in revenue record do not create any title over the property, but those entries are only for fiscal purpose as held in **Shrikant R. Sankanwar and Ors. V/s. Krishna Balu Naukudkar; (2003) 2 Mh.L.J 276.**

8. In the case of **Tukaram Kana Joshi and Ors. V/s. Maharashtra Industrial Development Corporation and Ors.**; (2013) 1 SCC 353, the Hon'ble Supreme Court held that right to property is a fundamental right under Article 300-A of the Constitution and observed in para no.9 as under:

“9. The right to property is now considered to be not only a constitutional or a statutory right but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment, etc. Now however, human rights are gaining an even greater multifaceted dimension. The right to property is considered very much to be a part of such new dimension. (Vide Lachuman Dass v. Jagat Ram, Amarjit Singh v. State of Punjab, State of M.P. v. Narmada Bachao Andolans, State of Haryana v. Mukesh Kumar and Delhi Airtech Services (P) Ltd. v. State of U.P.)”

9. In the case of **State of Maharashtra V/s. Digambar**; (1995) 4 SCC 683, the Hon'ble Supreme Court held that, on account of lapse of time or of undue delay the Writ Petitioner, be he a citizen or otherwise, is not entitled to relief against anybody including the State and observed in Para Nos. 18 to 26 as under:

“18. Coming to the exercise of power conferred upon the High Court under Article 226 of the Constitution for issuing orders, directions or writs for "any purpose", such power is discretionary, being a matter well-settled, cannot be disputed.

19. Power of the High Court to be exercised under Article 226 of the Constitution, if is discretionary, its exercise must be judicious and reasonable, admits of no controversy. It is for that reason, a person's entitlement for relief from a High Court under Article 226 of the

Constitution, be it against the State or anybody else, even if is founded on the allegation of infringement of his legal right, has to necessarily depend upon unblameworthy conduct of the person seeking relief, and the court refuses to grant the discretionary relief to such person in exercise of such power, when he approaches it with unclean hands or blameworthy conduct.

20. *Laches or undue delay, the blameworthy conduct of a person in approaching a court of equity in England for obtaining discretionary relief which disentitled him for grant of such relief was explained succinctly by Sir Barnes Peacock, long ago, in Lindsay Petroleum Co. v. Hurd thus:*

"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation, in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute or limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy."

21. *Whether the above doctrine of laches which disentitled grant of relief to a party by equity court of England, could disentitle the grant of relief to a person by the High Court in exercise of its power under Article 226 of our Constitution, when came up for consideration before a Constitution Bench of this Court in Moon Mills Ltd. v. M.R. Meher, President, Industrial Court, it was regarded as a principle that disentitled a party for grant of relief from a High*

Court in exercise of its discretionary power under Article 226 of the Constitution.

22. *A three-Judge Bench of this Court in Maharashtra SRTC v. Shri Balwant Regular Motor Service reiterated the said principle of laches or undue delay as that which applied in exercise of power by the High Court under Article 226 of the Constitution.*

23. *Therefore, where a High Court in exercise of its power vested under Article 226 of the Constitution issues a direction, order or writ for granting relief to a person including a citizen without considering his disentitlement for such relief due to his blameworthy conduct of undue delay or laches in claiming the same, such a direction, order or writ becomes unsustainable as that not made judiciously and reasonably in exercise of its sound judicial discretion, but as that made arbitrarily.*

24. *Since we have held earlier that the person seeking grant of relief under Article 226 of the Constitution, even if it be against the State, is required to satisfy the High Court that he was not guilty of laches or undue delay in approaching it for relief, need arises for us to consider whether the respondent in the present appeal (writ petitioner in the High Court) who had sought for relief of compensation on the alleged infringement of his legal right, had satisfied the High Court that he was not guilty of undue delay or laches in approaching it for relief. The allegation of the petitioner in the writ petition, as becomes clear from the judgment under appeal, was that although a certain extent of his land was taken away in the year 1971-72 by the agency of the State for the scarcity relief road works undertaken by the State Government in the year 1971-72, to find work for small agriculturists and agricultural labourers in the then prevailing severe drought conditions, without his consent, he was not compensated therefor, despite requests made to the State Government and various agencies in that regard ever since till the date of filing of the writ petition by him.*

25. *In our view, the above allegation is in no way sufficient to hold that the writ petitioner (respondent here) has explained properly and satisfactorily the undue delay of 20 years which had occurred between the alleged taking of possession of his land and the date of filing of writ petition in the High Court. We cannot overlook the fact*

that it is easy to make such kind of allegations against anybody that too against the State. When such general allegation is made against a State in relation to an event said to have occurred 20 years earlier, and the State's non- compliance with petitioner's demands, the State may not at all be in a position to dispute such allegation, having regard to the manner in which it is required to carry on its governmental functions. Undue delay of 20 years on the part of the writ petitioner, in invoking the High Court's extraordinary jurisdiction under Article 226 of the Constitution for grant of compensation to his land alleged to have been taken by the governmental agencies, would suggest that his land was not taken at all, or if it had been taken it could not have been taken without his consent or if it was taken against his consent he had acquiesced in such taking and waived his right to take compensation for it.

26. *Thus, when the writ petitioner (respondent here) was guilty of laches or undue delay in approaching the High Court, the principle of laches or undue delay adverted to above, disentitled the writ petitioner (respondent here) for discretionary relief under Article 226 of the Constitution from the High Court, particularly, when virtually no attempt had been made by the writ petitioner to explain his blameworthy conduct of undue delay or laches. The High Court, therefore, was wholly wrong in granting relief in relation to inquiring into the allegation and granting compensation for his land alleged to have been used for scarcity relief road works in the year 1971-72. As seen from the judgment of the High Court, the allegation adverted to above, appears to be the common allegation in other 191 writ petitions where judgments are rendered by the High Court following the judgment under appeal and which are subject of SLPs in this Court that are yet to be registered. We have, therefore, no hesitation in holding that the High Court had gone wholly wrong in granting the relief which it has given in the judgment under appeal, and judgments rendered following the said judgment in other 191 writ petitions, said to be the subject of SLPs or otherwise. All the said judgments of the High Court, having regard to the fact that they were made in writ petitions with common allegation and seeking common relief, are liable to be interfered with and set aside in the interests of justice even though only learned counsel appearing for a few writ petitioners were heard by us.”*

10. It is submitted that, on 26.10.2010 the State Government issued a G. R. in respect of seeking compensation by the agriculturist belatedly in respect of acquisition of their lands. The State Government resolved in the GR which is in verbatim reproduced as under:

"शासनाने सार्वजनिक प्रयोजनांतर्गत एखादी योजना तातडीने राबविण्यासाठी खाजगी जमीन, जमीन मालकांकडून ताब्यात घेण्याची नितांत निकड असते. अशावेळी खाजगी जमीन ताब्यात घेतांना काही अटीवर प्रस्तुत जमीन जमीन मालकांकडून घेण्यात येते. ज्या अटीवर जमीन मालकांकडून जमीन घेण्यात आली असेल त्या अटीनुसारच जमीन मालकास नुकसान भरपाई देय राहिल. मात्र, जमीन मालकांकडून जमीन ताब्यात घेतांना कोणत्याही अटी घालण्यांत आल्या नसतील तर किंवा जमीन विनामूल्य ताब्यात घेतली असेल तर अशा जमिनीबाबत जमीन मालकास नुकसान भरपाई देय राहणार नाही. परंतु एखादी जमीन भूसंपादन अधिनियम, १८९४ नुसार सार्वजनिक प्रयोजनासाठी संपादित केली असल्यास अशा जमिनीसाठी नुकसान भरपाई देय राहिल.

शासनाने सार्वजनिक प्रयोजनासाठी शेतक-यांच्या खाजगी जमिनी, जमीन मालकांच्या संमतीने, राजीनामा, बक्षीसपत्रक, दानपत्र किंवा तत्सम प्रक्रियेद्वारे स्वखुशीने शासनाच्या ताब्यात दिल्यास अशा जमिनीची नुकसान भरपाई काही कालावधीनंतर मागणी करण्याचा अधिकार संबंधित जमीन मालकास रहात नाही व अशाप्रकारे ताब्यात घेतलेल्या जमिनीसाठी जमीन मालकांनी कालांतराने नुकसान भरपाईची मागणी केल्यास त्यांनी नुकसान भरपाई मिळण्याचा हक्क सोडून दिलेला आहे असे गृहीत धरण्यास वाव असल्यामुळे पा. सर्वोच्च न्यायालयाने सिव्हील अपील क्रमांक- ६०६६/१९९५, महाराष्ट्र शासन विरुद्ध दिगांबर या न्यायालयीन प्रकरणामध्ये दिनांक १२/५/१९९५ रोजी दिलेल्या याच निर्णयामध्ये स्पष्ट निष्कर्ष नोंदविलेले आहेत. जर भविष्यात अशाच प्रकारची काही प्रकरणे उद्भवल्यास अशा प्रकरणी मा. सर्वोच्च न्यायालयाच्या न्याय निर्णयानुसार विचार करून निर्णय घेणे आवश्यक आहे. जमीन ताब्यात घेते वेळी मोबदला संदर्भात अटी लागू केल्यास किंवा रीतसर भूसंपादन प्रक्रियेच्या माध्यमातून संपादन झाले नसल्यास, जमीन मालकांच्या संमतीशिवाय घेतली नसावी व त्याने नुकसान भरपाई मिळण्याचा हक्क सोडून दिला आहे असे समजून कालांतराने संबंधित जमीन मालकांनी नुकसान भरपाईची मागणी केल्यास अशी नुकसान भरपाई संबंधितांना देण्यांत येऊ नये व अशी प्रकरणे नाकारण्यांत यावीत."

11. In the case of **Assistant Commissioner (CT) LTU. Kakinada & Ors Vs. Glaxo Smith Kline Consumer Health Care; (2020) 19 SCC 681**, it is observed that, what the Supreme Court cannot do in exercise of its plenary powers under Article 142 of the Constitution, it is unfathomable as to how the High Court can take a different approach in the matter of reference to Article 226 of the Constitution. The principle underlying the rejection of such argument by the Supreme Court '*would apply on all fours to the exercise of power by the High Court under Article 226 of the Constitution of India*'. It is held that neither jurisdiction under Article 142 nor the Writ jurisdiction under Article 226 can be exercised to undermine or defeat the applicable statutory regime.

12. In the case in hand, the Petitioners claimed that, in the year 1955, the State Government acquired their land, but no compensation is paid to them. However, the Petitioners fail to bring any circumstances or cause, which prevented them to claim compensation till expiry of 68 years period. Therefore, it appears that, the petitioners have been sleeping over their rights for more than 6 decades. The law of equity will not applicable to the litigants who are ignorant of law and have slept over their rights for 68 years.

13. No doubt, in **Vidya Devi Vs. The State of Himachal Pradesh & Ors.**; (2020) 2 SCC 569 and **Tukaram Joshi** cited (*supra*), the Hon'ble Supreme Court laid down the law that, right to property is a Constitutional right under Article 300-A of the Constitution of India and the State cannot dispossess the citizen of his property except in accordance with procedure established by the law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article.

14. In the case of **Tukaram Kana Joshi** cited (*supra*) the Hon'ble Supreme Court observed in Para Nos. 10 to 12 as under:

“10. The State, especially a welfare State which is governed by the Rule of Law, cannot arrogate itself to a status beyond one that is provided by the Constitution. Our Constitution is an organic and flexible one. Delay and laches is adopted as a mode of discretion to decline exercise of jurisdiction to grant relief. There is another facet. The Court is required to exercise judicial discretion. The said discretion is dependent on facts and circumstances of the cases. Delay and laches is one of the facets to deny exercise of discretion. It is not an absolute impediment. There can be mitigating factors, continuity of cause action, etc. That apart, if whole thing shocks the judicial conscience, then the Court should exercise the discretion more so, when no third party interest is involved. Thus analysed, the petition is not hit by the doctrine of delay and laches as the same is not a constitutional limitation, the cause of action is continuous and further the situation certainly shocks judicial conscience.

11. The question of condonation of delay is one of discretion and has to be decided on the basis of the facts of the case at hand, as the same vary from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226. nor is it that there can never

be a case where the Courts cannot interfere in a matter, after the passage of a certain length of time. There may be a case where the demand for justice is so compelling, that the High Court would be inclined to interfere in spite of delay. Ultimately, it would be a matter within the discretion of the Court and such discretion, must be exercised fairly and justly so as to promote justice and not to defeat it. The validity of the party's defence must be tried upon principles substantially equitable. (Vide: P.S. Sadasivaswamy v. State of T.N. AIR 1974 SC 2271; State of MP. and Ors. v. Nandlal Jaiswal and Ors., AIR 1987 SC 251; and Tridip Kumar Dingal and Ors. v. State of West Bengal and Ors., (2009) 1 SCC 768 (AIR 2008 SC (Supp) 824);)

12. *No hard and fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. In other words, where circumstances justifying the conduct exist, the illegality which is manifest, cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have a vested right in the injustice being done, because of a non-deliberate delay. The court should not harm innocent parties if their rights have in fact emerged, by delay on the part of the petitioners. (Vide: Durga Prasad v. Chief Controller of Imports and Exports and Ors., AIR 1970 SC 769; Collector, Land Acquisition, Anantnag and Anr. v. Mst. Katiji and Ors., AIR 1987 SC 1353; Dehri Rohtas Light Railway Company Ltd. v. District Board, Bhojpur and Ors., AIR 1993 SC 802:(1992) AIR SCW 3181; Dayal Singh and Ors. v. Union of India and Ors., AIR 2003 SC 1140: (2003 AIR SCW 685); and Shankara Co-op Housing Society Ltd. v. M. Prabhakar and Ors., AIR 2011 SC 2161: (2011 AIR SCW 3033))”*

15. In the case of **Digambar** (supra), it has been held that, no person is entitled to obtain equitable relief under Article 226 of the Constitution if his conduct is blameworthy because of laches, undue delay and acquiescence or

waiver. The relief so granted becomes unsustainable. The relief sought under Article 226 of the Constitution by a person against the welfare state is founded on its alleged illegal or wrongful executive action. The need to explain laches or undue delay on his part to obtain such relief would be more stringent than in other cases. Therefore, the petitioners are required to be diligent in showing that, their land has been acquired by Respondent No. 4, but no compensation has been paid.

16. According to the Petitioners, the Respondent No.6-Tahsildar effected Mutation Entry No.369 on 18.10.1989. However the Petitioners have not pleaded that, they were not having knowledge in respect of acquisition of their property by the State Authority, in the year 1955. So also, even from the date of mutation entry, the Petitioners did not make any grievance for a long period of 34 years and after lapse of 68 years from the acquisition of the property, have approached this Court which certainly appears unjustifiable. It is settled a principle of law that, the person who slept over his right for years together and the claim which is barred by limitation, cannot be considered by the Court. No doubt, while exercising the jurisdiction under Article 226 there is no absolute impediment. However, said exercising of powers are discretionary.

17. Indeed, the Petitioners have put-forth a claim for compensation after 68 years from the date of acquisition of their land. But they have not put-forth any such explanation to prove that, though they continuously pursued their remedy before the Respondents since the date of acquisition of land, their efforts have been rendered futile. As observed above, the Petitioners initially remained silent from 1955 to 1989, a period of 34 years. Again they remained silent for the period of 34 years from the date of effecting the mutation entry. Therefore, merely submitting representations on various dates i.e. 18.08.2006, 24.08.2009, 12.11.2016, 16.08.2016, 24.05.2022 and 04.09.2023, would not indicate due diligence and justify lapse of limitation. Considering the facts clearly appearing in the present petition in the light of the law laid down in cited cases, we do not find any merit in the present case.

18. Thus, in the above circumstances, **this Petition is dismissed**. Rule is discharged. No order as to cost.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]