

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1627 OF 2019

Pratibha Vishwanath Khadapkar ... Petitioner

versus

The State of Maharashtra and Others ... Respondents

.....

Mr.Sachin Punde for the Petitioner.

Ms.Rupali Shinde, AGP for the Respondent -State.

.....

**CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, JJ.**

DATE : 22 March 2024.

P.C. :

Two prayers are sought in the petition. First prayer is to declare that the acquisition of the Petitioner's agricultural land as deemed to have lapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the Act of 2013) and the second prayer is to direct the Respondents to pay compensation as per prevailing market rate.

2. As regards Section 24 (2) of the Act of 2013 is concerned, reply affidavit has been filed wherein it is stated that the notice

under Section 12 (2) of the Land Acquisition Act, 1894 (the Act of 1894) was issued and accepted by the Petitioner on 8 December 1993. Thereafter, the date was fixed for taking possession of the said land on 13 December 1993. On that date, some of the parties handed over the possession. The Petitioner was absent. Panchnama was prepared with two independent Panchas and the possession was taken over on 13 December 1993. In light of the law laid down by the Constitution Bench in the case of *Indore Development Authority versus Manoharlal and Others*¹, the possession having been taken, there cannot be lapsing under Section 24 (2) of the Act of 2013. It is also further stated that the Award was declared on 31 October 1993 and the amount of compensation was awarded.

3. The learned Counsel for the Petitioner sought to contend that though there may not be lapsing of the acquisition, but the amount of trees has not been included in the Award and the Petitioner had in fact written a letter to the authorities as far back on 13 December 1993 and there has been continuous correspondence and therefore, the Special Land Acquisition Officer be directed to take proposal based on the Petitioner's representation forward for payment of compensation towards trees.

1 AIR 2020 SC 1496

4. We note that the Award was declared on 31 October 1993. It is now more than 30 years this Award was passed. If the Petitioner was not satisfied with the quantum of the compensation, then the Petitioner could have filed a reference. The learned Counsel for the Petitioner sought to contend that a communication dated 13 December 1993 should have been considered as a reference. Section 18 of the Act of 1894 gives specific right for seeking enhancement and provides limitation. If in spite of all ingredients present, the communication dated 13 December 1993 was not treated as a reference, a writ should have been sought immediately to treat the communication as a reference. Merely by making periodically correspondence, 30 years delay cannot be overlooked. There is no deprivation of the properties without the process of law. The procedure has been followed and the Award has been declared. The Petitioner had right to seek enhanced compensation which is not exercised with diligence.

5. In light thereof, we are not inclined to exercise writ jurisdiction.

6. The writ petition is accordingly rejected.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)