

AGK

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

WRIT PETITION NO.4942 OF 2022

ATUL
GANESH
KULKARNI
Digitally signed by
ATUL GANESH
KULKARNI
Date: 2024.04.15
10:22:48 +0530

Vasant Keshwa Chavan & Ors.

....Petitioners

V/s.

The State of Maharashtra & Ors.

....Respondents

Dr. Abhinav Chandrachud with Mr. Vinod Sangvikar, Ms. Namrata Vota, Mr. Pranit Kulkarni and Ms. Unnati Ghia i/by Mr. Umesh R. Mankapure for the Petitioners.

Mr. Sachin Gite for Respondent Nos.5 to 8.

Ms. Rupali Shinde, AGP for Respondent Nos.1 to 4 & 9 – State.

**CORAM : NITIN JAMDAR &
AMIT BORKAR, JJ.**

DATE : 8 APRIL 2024

P.C. :-

On 11 March 2024, following order came to be passed:

“Heard learned Counsel for the parties.

2. Reply affidavit filed on behalf of Respondent Nos. 5 to 8 – Krishna Valley Development Water Resources Department. The Petitioners’ lands are

submerged due to Tembhu Upsa Irrigation Scheme. Grievance of the Petitioners is regarding non-acquisition of these lands. It is not necessary to detail the facts of this case as to position is admitted by the above Respondents by filing reply affidavit. First, that the acquisition proceedings, which were initiated under the Land Acquisition Act, 1894, have lapsed and the procedure for acquisition of the Petitioners' lands will be under new Act i.e. the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is also accepted that there are two modes for acquisition under the new Act. One is private negotiation and the second is compulsory acquisition. It is also accepted that private negotiations have failed which fact is confirmed by the Petitioners. Therefore, the second mode will have to be followed.

3. According to the learned Counsel for Respondent Nos. 5 to 8, proposal is submitted to the State for acquisition under the new Act and it is pending with the State Authority.

4. The learned AGP seeks time to take instructions within time estimate for initiating / completion of acquisition proceedings by filing reply affidavit.

5. Stand over to **8 April 2024.**"

2. Reply affidavit is filed by the Sub-Divisional Officer, Karad on 28 March 2024 wherein following stand is taken:

"3. I say that a fresh proposal for acquisition of the Petitioner's Land under Act 2013 is received by this office through Hon'ble District Collector Satara by

letter dated 13/01/2023 as provided in Exhibit A which is under process.

4. I say that at present the General Lok Sabha Election 2024 are declared, this office head as well as office staff of this office has been allotted election duties, hence acquisition procedure would be carried on after Lok Sabha Election.”

3. The reference to the elections is only in respect of manpower. There is no embargo on the Authorities of the State to proceed for performance of their statutory duties. In fact, the Petitioners are before us because the Respondents have failed to act in furtherance of their statutory duties since the year 2009 and it is because of this delay that we had passed order on 11 March 2024. In light thereof, we are not inclined to accept that the steps to be taken have to be tied up with the process of elections.

4. Accordingly, it is directed that the necessary steps to initiate the acquisition proceedings in respect of the subject land be taken within a period of four weeks.

6. The Writ Petition accordingly stands disposed of in above terms.

(AMIT BORKAR, J.)

(NITIN JAMDAR, J.)