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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1225 OF 2024

Baburao Shivram Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1287 OF 2024

Kisan Mhatarba Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1194 OF 2024

Manjaba Patilbuwa Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1201 OF 2024

Haribhau Bhimaji Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1203 OF 2024

Manjaba Patilbuwa Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1202 OF 2024

Harishchandra Mahadev Rakshe Thru POA Vikas ... Petitioner
Rakhma Kokane

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1178 OF 2024

Kashinath Dagadu Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1192 OF 2024

Narayan Tatyaba Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1177 OF 2024

Baburao Shivram Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1237 OF 2024

Laxmibai Jijabhu Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1193 OF 2024

Jaywantibai Baburao Dhobale Decd Thru Lhr. ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1176 OF 2024

Vasant Shivram Rakshe POA Vikas Rakhma Kokane ... Petitioner

Versus

The Additional Collector, Pune and Ors. ... Respondents

WITH
WRIT PETITION NO. 1204 OF 2024

Jijabhau Shivram Dhobale Decd Thru Lhr.

... Petitioner

Versus

The Additional Collector, Pune and Ors.

... Respondents

Mr. Aditya R. Deshmukh for the Petitioners in all the Writ Petitions
Mr. P. P. More, A.G.P. for the State in WP/1225/24, WP/1287/24,
WP/1194/24, WP/1201/24, WP/1203/24
Mr. P. J. Gavhane, A.G.P. for the State in WP/1202/24, WP/1178/24,
WP/1192/24, WP/1177/24, WP/1237/24
Mr. P. N. Diwan, A.G.P. for the State in WP/1193/24, WP/1176/24,
WP/1204/24

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 6th March, 2024

P.C.

1. Heard the learned counsel for the Petitioners on these group of Petitions. Although the lands of the Petitioners are different, the prayers made in the Petitions are similar. For convenience, we note the prayers as made in Writ Petition No. 1225 of 2024 which read thus:

“A. Hon'ble Court may by way of appropriate Writ Order of direction, direct the Respondents to issue notice u/s 16(2)(a) of the Maharashtra Project Affected Persons Rehabilitation Act 1999 to the Petitioner and after the Petitioner communicates willingness and deposits an amount of 65% of the amount of compensation received him further direct the Respondents to allot to the Petitioner and admeasuring 5H 05 Ares in the benefitted zone.

B. Any other just and necessary Order may kindly be passed in favour of the Petitioner.”

2. At the outset, we need to set out that the Petitions are bereft of any details, as the facts as set out in the Petition are barely three paragraphs, which read thus:

"1. The Petitioner is citizen of India and resides at the address given in the title clause of this writ petition. The Respondent No. 1 is the Additional Collector, Pune and the Respondent No. 2 is the District Rehabilitation Officer of Pune district and who is concerned with the allotment of lands to the Project Affected Persons (PAPs), whereas Respondent No. 3 is the State of Maharashtra under whom Respondent Nos. 1 and 2 are working for the cause of the Petition.

2. The Petitioner's grandfather late Baburao Shivram Dhobale was the owner of land bearing survey nos. 68/3, 65/1, 62/3, 63/2B, 63/1, 62/2, 62/1B admeasuring total area 5 Hectare and 05 Ares. The 7/12 extracts of these lands are marked and attached as EXHIBIT-A. The Respondents have acquired the said land for Manikdoh Dam, Tal. Junnar, Dist. Pune.

3. The Petitioner states that the acquisition of the said lands was done and u/s 11 of the Act, an award bearing no. SR/5/73 was passed on 30/03/1977 thereby making him a project affected person under the provisions of Maharashtra Resettlement of Project Affected Persons Rehabilitation Act, 1976. A copy of the said award along with Sankalan Register is marked and attached as EXHIBIT-B."

3. The averments made in paragraph 3 of the Petition show that the land with which the petitioners claim to be concerned were acquired in the year 1977 under an award dated 30th March 1977. It is on such backdrop, the Petitioners are now before us making the prayers that the Respondents be directed to issue notice under section 16(2)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 and permit the Petitioners to deposit the amount of 65% of the amount of compensation received by them so that the Petitioner becomes entitled to alternate land. We may also note that there are no averment in the Petitions in regard to the delay of 47 years in seeking these reliefs. In such context, a co-ordinate bench of this Court, of which one of us (G.S.Kulkarni, J.) was a member, in ***Tatoba Rama Chavan, through her legal heir, Sou. Nanda Balkrishna Mane vs. Collector and Others***¹ in a similar situation held that such Writ Petition filed with an inordinate and

unexplained delay cannot be entertained and no relief could be granted in such circumstances considering the settled principles of law as laid down by the Supreme Court on such issue. The observations of the Division Bench which apply to the present proceedings with full force, in some detail are required to be noted, which read thus:

“5. The land of the Petitioner’s father was acquired in the year 1983. At the relevant time, the Maharashtra Resettlement of Project Displaced Persons Act, 1976 (“1976 Act”) was in force. Section 10 of the said Act provided that the State Government shall resettle as many displaced persons as possible on land in the benefited zone or in other villages or areas in accordance with the provisions of the said Act and the rules made thereunder. Section 11 provided for notification declaring that the provisions of this Act shall apply in relation to the project specified in the notification and the said declaration shall also be published in the villages or areas, which are likely to be affected. Section 12 of the said Act restricted transfer, sub-division or participation of land in the benefited zone except with the permission of the State Government. Section 13 provides for assessment of extent of land from which persons have been displaced and the extent of land available for resettlement. After the said assessment, under Section 14, the State Government is to notify the area, which is required for the project and which would be adversely affected by the project and also invite objections and suggestions to the same. Section 15 provides for final declaration of affected zone and benefited zone and power to make changes in such zones by the State Government. Section 16 provides that the State Government may enter into an agreement with any person for the purchase or exchange of any land required for carrying out the purposes of the Act. Section 16 also empowers the State Government to compulsorily acquire land under the Land Acquisition Act and the said acquisition is deemed to be a public purpose within the meaning of the Land Acquisition Act. Section 17 provides for extent of land to be granted to displaced persons. According to the provisions of Part I of Schedule B of the said Act and subject to such conditions as may be prescribed. Section 17(6) provides that in granting alternative land to a displaced person, the value of such land shall ordinarily be of the said amount, which the displaced person has received in respect of his land in the affected zone, which is acquired for the project. Section 18 provides for payment of occupancy price by the affected persons. The occupancy price shall be payable in such manner and in lumpsum or in such installment as may be prescribed. Section 19 provides for calling upon the displaced persons in the affected zone to intimate whether they require land for resettlement on occupancy price provided under Section 18, and if so, to submit a statement containing the particulars specified therein. Section 21 of the said Act provides for publication of scheme and sanctioning of the scheme for resettlement. Section 23 of the said Act provides for grant of land to the displaced persons on payment of occupancy price. Section 23(2) provides for consequences of non-payment of occupancy price which inter alia includes the displaced person having forfeited his right to the grant of the land as provided in

the sanctioned scheme.

6. Thus, on a perusal of the legislative scheme of the 1976 Act, the cause of action to claim the land by the Petitioner's father accrues when the land was acquired in 1983 and on fulfillment of various conditions specified in the Act, including the condition of payment of occupancy price. The 1976 Act is a self contained Code in itself. The statutory mechanism to provide alternate land under 1976 Act requires the Government to estimate the requirements of the project affected persons and, accordingly, take corresponding steps to make the land available as per the valid applications after considering their eligibility. It is not countenanced that a project affected person or his successors for all time to come and/or in perpetuity are entitled to stake a claim for allotment of an alternate land. It is not expected that if a belated claim is made, the Government would be obliged to reopen everything and grant such application. Such reading of the provisions of the 1976 Act would defeat the entire legislative scheme, which is not open indeed as seen from the provisions of the Act.

7. This apart we are in the year 2023; In the past 50 years, the statutory scenario has also undergone substantial change. Much water has flown under the bridge as the State legislature in the year 1989 enacted the Maharashtra Project Affected Persons Rehabilitation Act, 1989 and thereafter the Maharashtra Project Affected Persons Rehabilitation Act, 1999 came to be enacted. Thus, the 1976 Act was repealed by Section 26 of the Maharashtra Project Affected Persons Rehabilitation Act, 1989 ("1989 Act"). The 1989 Act also contained provisions for acquisition of land, rehabilitation and grant of the land to the displaced persons as that of 1976 Act. Section 16 of the 1989 Act provides that an eligible affected person desirous of getting land may make an application to the Collector in the prescribed form for grant of land and subject to the payment of occupancy price, the land would be granted. However, if the displaced persons failed to deposit the occupancy price, then an affected person forfeited his right to get the land. The 1989 Act was repealed by Section 28 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 ("1999 Act").

8. The Petitioner in the present petition is blissfully silent on several basic requirements for her to maintain this petition. She has not made any averments as to whether any occupancy price was paid by the Petitioner's father and any other preconditions required for grant of land were complied with. The process of acquisition is over in the year 1983 itself. In the absence of the same, coupled with the fact of no explanation for the delay, it cannot be said that the Petitioner has made out even a prima facie case. On the contrary, it appears on the face of it a dead/stale claim is sought to be revived by filing the present petition.

9. We have come across some proceedings where, as a matter of course, the petitioners whose land was acquired ages back like in the present case. It appears to be a tendency to approach this Court seeking orders that their belated representations be considered. We may observe that when such petitioners have no legal rights, they cannot invoke equity or sympathy that they are project affected persons. This

more particularly as the jurisdiction of this Court to issue writs although may be equitable jurisdiction, however, the same is on a foundation of an existing and a live claim on which a litigant may seek a relief on a grievance of infringement of any of his legal rights. If what is being canvassed by the petitioners is accepted, it would result in the Court acting contrary to the mandate of law in issuing directions to the Government to re-open dead cases and make allotment of lands irrespective of the statutory scheme under the enactment, which was prevalent at the relevant point of time and as noted by us above. In our considered opinion, a loud and clear message has to go to such litigants who in fact attempt to abuse the process of law to approach the Court in belated claims. The present case is one such classic example of such dead claim being pursued. The only consequence is that such petitions are required to be, at the threshold, kept away from crowding the Courts, as they are clearly an abuse of the process of law.

10. Thus, in our view, the present petition is not maintainable under Article 226 of the Constitution of India. The Petitioner has approached this Court after an inordinate delay of almost 38 years from the date of the land having being acquired. The petitioner has not bothered to explain the delay of almost 37 years in making an application in the year 2020 to enforce the award passed in the year 1983. Even if the year 1999, when the Maharashtra Project Affected Persons Rehabilitation Act, 1999, came into existence is considered, even then the petitioner's application dated 17th January 2020 seeking allotment of the land is filed after a period of more than 20 years and there is no explanation for the delay of 20 years. In our view, as the petition is filed after gross delay and laches and such a Petitioner, who slept over his/her rights for almost three decades, cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, *moreso*, when there is no averment in the petition explaining the delay.

11. In the case of *C. Jacob vs. Director of Geology & Mining & Anr.*², the Supreme Court have observed in para 6 as under:

“6. Let us take the hypothetical case of an employee who is terminated from service in 1980. He does not challenge the termination. But nearly two decades later, say in the year 2000, he decides to challenge the termination. He is aware that any such challenge would be rejected at the threshold on the ground of delay (if the application is made before Tribunal) or on the ground of delay and laches (if a writ petition is filed before a High Court). Therefore, instead of challenging the termination, he gives a representation requesting that he may be taken back to service. Normally, there will be considerable delay in replying such representations relating to old matters. Taking advantage of this position, the ex-employee files an application/writ petition before the Tribunal/High Court seeking a direction to the employer to consider and dispose of his representation. The Tribunals/High Courts routinely allow or dispose of such applications/petitions (many a time even without notice to the

other side), without examining the matter on merits, with a direction to consider and dispose of the representation. The courts/tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly they assume that a mere direction to consider and dispose of the representation does not involve any 'decision' on rights and obligations of parties. Little do they realize the consequences of such a direction to 'consider'. If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of the long delay, all by reason of the direction to 'consider'. If the representation is considered and rejected, the ex-employee files an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The Tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored.

7. Every representation to the government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim.

8. When a direction is issued by a court/tribunal to consider or deal with the representation, usually the directee (person directed) examines the matter on merits, being under the impression that failure to do may amount to disobedience. When an order is passed considering and rejecting the claim or representation, in compliance with direction of the court or tribunal, such an order does not revive the stale claim, nor amount to some kind of 'acknowledgment of a jural relationship' to give rise to a fresh cause of action.

9.

10. We are constrained to refer to the several facets of the issue only to emphasize the need for circumspection and care in issuing directions for 'consideration'. If the representation is on the face of it is stale, or does not contain particulars to show that it is regarding a live claim, courts should desist from directing 'consideration' of such claims."

12. In our view, the facts of the present case are similar to the facts before the Supreme Court with respect to the delay and laches and, therefore, the decision of the Supreme Court in the case of *C. Jacob (supra)* squarely applies to the present case.

13. *The above referred decision in the case of C. Jacob (supra) has been followed by the Supreme Court in the following cases:*

- (i) *Union of India & Ors. vs. C. Girija & Ors.*³
- (ii) *State of Uttaranchal & Another vs. Shiv Charan Singh Bhandari & Ors.*⁴.
- (iii) *Union of India And Others vs. M.K. Sarkar*⁵.

14. *We may also note the decision of the Supreme Court in case of The Govt. of India & Anr. vs. P. Venkatesh*⁶ wherein with respect to delay in pursuing the remedy, the Supreme Court has refused the relief to the litigant in pursuing its remedy after huge delay from the date of cause of action.

15. *The present petition is filed to claim benefit under the 1999 Act. However, the Petitioner has failed to state in the petition as to how the provisions of 1999 Act are applicable for the acquisition made in the year 1983 when the 1976 Act was prevalent and thereafter, the 1989 Act. Therefore, in our view, the present petition also does not make out any case in support of the relief as prayed for.*

16. *In our view, allowing the consideration of the claim made by the Petitioner before the Authority or before this Court would be reviving a claim which has already come to an end, when the whole process of acquisition of land was over. Therefore, in our view, the present petition and the representation made to the Authorities is only to revive the dead/stale claim which this Court cannot be allowed in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India after a period of more than three decades.”*

4. *In Dnyanu Bhiku Tanpur (since deceased) through Lrs. And Ors. vs. The Deputy Collector, Rehabilitation, Pune & Ors. in Writ Petition No.8192 of 2022,* in similar circumstances the Court made the following observations:

“3. The contention of the petitioners is that the lands of the predecessors were acquired for Chaskaman Irrigation Project, in respect of which the land acquisition award was rendered on 21 March 1989 and 31 March 1989 respectively. The case of the petitioners is to the effect that they would be entitled to alternate land. The petitioners have made specific averments in the petitions that petitioners have never received a notice under Section 16(2)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (for short the “1999

3(2019) 15 SCC 633

4(2013) 12 SCC 179

5(2010) 2 SCC 59

6Civil Appeal No.2425 of 2019 (@ SLP (C) No.5810 of 2017), New Delhi, March 01, 2019.

Act”). It is their contentions that after passing of the award the respondents particularly the Collector, ought to have prepared proposals in one or more stages from time to time as the circumstance may require for rehabilitation of the affected persons from the affected Zone under the project, and publish a notice containing such proposals. However, no such proposal was prepared.

4. The primary contentions as urged by Mr. Deshpande in both these petitions is that the respondents never issued a notice under Section 16(2)(a) of the 1999 Act to the petitioners, who are project affected persons, calling upon to them to communicate their willingness to accept the grant of land within the stipulated period and it is in these circumstances, the petitioner would be hit by the provisions of sub-section (2) of Section 16 of the 1999 Act, and it would be presumed that the petitioners have fortified their right to get allotment of the alternate land. It is thus submitted that there was no alternative for the petitioners but to approach this Court praying for a direction that the respondent issues a notice under Section 16(2)(a) of the 1999 Act to the petitioner, and after such a notice is issued, the petitioners would communicate their willingness and thereafter the petitioner be permitted to deposit 65% of the amount of compensation received by the petitioners and thereafter respondents shall allot the petitioners land in the beneficial zone of the Irrigation project. Mr. Deshpande, in support of such contention, has drawn our attention to the land acquisition awards which are annexed to the petition which itself are of the year March, 1989 as noted above.

6. At the outset to appreciate the contentions as urged by the petitioners we note the provisions of Section 16 of the 1999 Act, which reads thus:

“16. Grant and assignment of land and payment of special grant

(1) An eligible affected person who is desirous of getting land or plot or both in the area shown for the purpose in the scheme published under section 15 may make an application to the Collector in the prescribed form for grant of land or plot, and subject to such rules as may be prescribed, it shall be lawful for the Collector -

(a) to grant land acquired under section 14 to such affected person with the occupancy status on the land held by him earlier;

(b) to grant a plot of land to such affected person in a new gaathan or extended part of the existing gaathan with the occupancy status on the land held by him earlier and rupees ten thousand as a special grant for construction of house on such plot,

in such manner, as far as possible, according to the provisions of parts III and IV of the Schedule and on such terms and conditions as may be prescribed:

Provided that -

(i) if the allottee of the land under sub-clauses (a) and (b) of sub-section (1) is an occupant Class II, he shall be entitled to conversion of the land to occupant Class I after a period of ten years on payment of premium as may be prescribed;

(ii) the affected person referred to in sub-clause (d) of clause (2) of section 2 shall be eligible to a constructed house on the basis of the Indira Awas Scheme of the State Government;

(iii) the affected person referred to in sub-clause (e) of clause (2) of section 2 shall be eligible only for grant of a plot under clause (b);

(iv) subject to the provisions of sub-sections (2) and (3), the occupancy price of the land or plot, as the case may be, granted under clause (a) or (b), except under sub-clause (ii) above, shall be determined and paid in the manner as may be prescribed.

(2) An affected person eligible for the grant to land or plot under sub-section (1) shall forfeit his right to get the same if -

(a) he fails to communicate his willingness to accept the grant of land or plot made to him, to the Collector within a period of forty-five days from the date of receipt by him of a notice in that behalf from the Collector; or

(b) he fails to deposit with the Collector, towards occupancy price of the land, sixty-five per cent of the amount of compensation which he has received for his land which is acquired from him in the affected zone or, of the likely cost of the land to be granted to him under sub-section (1), whichever is less, at the time of payment of such compensation to such affected person.

(3) After payment of the amount under clause (b) of sub-section (2), the remaining amount towards the occupancy price payable by the affected person for the land allotted to him shall be recovered from him free of interest in such manner and instalments as may be prescribed :

Provided that, the first instalment of such recovery shall commence one year after the irrigation facility is made available to him.

(4) The State Government shall pay a special grant to all such affected persons who have deposited an amount as per clause (b) of sub-section (2) of this section but have not been allotted land in the benefited zone and the rate of the special grant shall be rupees four hundred per mensem for the period from the date of actual displacement of the person from the land to the date of allotment of land in the benefited zone.

(5) Nothing in this Act shall prevent the project authority to lease out to the affected person the land acquired from him till the gorge filling of an irrigation project is taken up and not used for quarrying dam seat, etc.

(6) Nothing in this Act shall prevent the Collector to lease out to the affected person the land acquired from him in the benefited zone, which is still in his possession, for whatever reason, till the possession of such land is granted to any eligible affected person and such land shall be given only on lease.”

7. On a plain reading on sub section (1) of Section 16, the consequence which would be brought about is to the effect that a project affected person who is desirous for allotment of plot or land or both in the area shown for the purpose in the scheme published under Section 15, is eligible to make an application to the Collector in the prescribed form for grant of land or plot, and subject to such rules as may be prescribed. It is lawful for the Collector to grant land acquired under Section 14 to such affected person with the occupancy status on the land held by him earlier, to grant a plot of land to such affected persons, in a new gaathan or extended part of the existing gaathan etc., which shall be according to the provisions of Part-III and Part-IV of the schedule and on such terms and conditions as may be prescribed and subject to the proviso to the sub-section (1). Insofar as the petitioners case in the present proceeding is concerned, we are concerned with sub-section (2) of Section 16 which provides that a project affected person eligible for grant of land or plot under sub-section (1) shall forfeit his right to get the same, if firstly, he fails to communicate his willingness to accept the grant of land or plot made to him, to the Collector within a period of 45 days from the date of receipt by him, of a notice in that behalf from the Collector, and secondly, if he fails to deposit with the Collector, towards occupancy price of the land, 65% of the amount of compensation which he has received for his land which is acquired from him in the affected zone or, of the likely cost of the land to be granted to him under sub-section (1), whichever is less, at the time of payment of such compensation to such affected persons. Sub-section (1) of Section 16 is required to be read in conjunction with sub-section (2). The petitioner has not annexed to the present petition the scheme which was published under Section 15. The date of the scheme is also not set out in the petition, even assuming that immediately after the land acquisition award was made, such a scheme was notified and that too under the law in regard to the project affected persons as prevailing at that time. This for the reason that the 1999 Act was not prevalent and was brought into force only from 1 April, 2002.

9. On a perusal of the averments as made in the petition, there is not a whisper in regard to such gross and inordinate delay of more than 33 years in filing present proceedings of both these petitions. In any event, such a prayer which is on the basis that no notice under Section 16(2)(a) was received at the relevant time in the year 1989, is itself a disputed question of fact as the original land owners/ predecessors of the petitioners appear to have not raised such issue, if that be so the petitioners are precluded from raising the same for the first time that too after such long long lapse of time. Thus, such issue cannot be gone

into the present proceedings. It could not have also been agitated in a civil suit after such a long lapse of 33 years of which the petitioners are aware and for such reason, this is a chance litigation, a total abuse of the process of law. Even otherwise, it is beyond one's imagination as to how such plea as taken in the petition can at all be entertained as the plea is that the predecessor of the petitioner had not received a notice. The successor cannot maintain such assertion and a claim.

10. *This apart, the prayer for issuance of a notice under Section 16(2)(a) is made under the 1999 Act, when the land acquisition in question took place in the year 1989 is totally untenable. The land acquisition awards in question are of the year 1989 when the 1999 Act, itself was not brought into force and what was prevailing at that point of time was the Maharashtra Resettlement of Project Displaced Persons Act 1976 (for short the 1976 Act) which did not have the provision of Section 16 as has been prayed for in the prayers so as to be made applicable. We are not shown by Mr. Deshpande, any provision under the 1999 Act, which has been made applicable retrospectively, and more particularly, Section 16 of the 1999 Act, to have a retrospective application, in respect of any acquisition of land prior to the 1999 Act being brought into force. We note that the relevant provisions of the 1976 Act, in regard to issuance of public notice calling upon displaced persons to state if they intend to have alternate land for Resettlement, was Section 19, and the corresponding provision for forfeiture of any claim was Section 23. For the sake of completeness, we refer to Section 19 and Section 23 of the 1976 Act, which reads thus:*

“19. Public notice calling upon displaced persons to state if they want land for resettlement. (1) The Resettlement Officer shall as soon as may be after the assessment is made under Section 13 public a public notice in the Official Gazette and also as provided by subsection (2) of Section 11 calling upon the displaced persons in the affected zone to intimate to him in writing before the date specified in the notice (not being earlier than 60 days’ from the date of publication of the notice in the Official Gazette whether they required land for resettlement on occupancy price provided under Section 18; and if so , to submit to him, in duplicate, before the said date, a statement containing the following particulars, namely;-

(a) the area of land held by each displaced person as occupant or tenant in the affected zone, separately;

(b) the area of land held by each displaced person, if any, in the benefited zone or outside that zone in any village or area specified under Section 10 as occupant or tenant;

(c) the description of land on which he was working as agricultural labourer;

(d) the place of residence in the old gaothan, and whether the displaced person holds that place as owner or tenant; and

(e) choose of land for purpose of grant or for working thereon as agricultural labourer in the benefited zone, or in the village or area specified under Section 10, and choice of land in the new gaothan.

(2) The Resettlement Officer shall take particular care to ensure that the notice published under sub-section (1) is given as wide publicity as possible, and for that purpose he may render such assistance to the displaced persons to understand the contents of the notice as he think fit in the circumstances of each case.

(3) A copy of the statement received under sub-section (1) shall be sent to the Deputy Director.

23. Grant of land on payment of occupancy price.-(1) *After the publication of the sanctioned scheme in the Official Gazette under Section 21, the Deputy Director shall, subject to the provisions of Section 25, grant land, on payment of occupancy price, to the displaced persons in accordance with the provisions of the sanctioned scheme; and thereupon, except as expressly provided by this Act, the provisions of the Code and rules made thereunder which provide for disposal of Government lands shall apply to such grants as they apply in relation to Government land granted under the Code.*

(2) Where the occupancy price payable by any displaced person in respect of the agricultural land granted to him is not paid as provided in sub-section (1), the Deputy Director may, if he is satisfied that the delay in granting the land under sub-section (1) is likely to result in land remaining fallow, put such displaced person in possession of the land from the commencement of the agricultural year next following the date of the publication of the sanctioned scheme in the Official Gazette, subject to the following conditions, namely,-

(i) if the displaced person fails to pay the occupancy price, he shall be deemed to have forfeited his right to the grant of the lands as provided in the sanctioned scheme;

(ii) in case of such failure, he shall be continued in possession of the land as a lessee only upto the expiry of the said agricultural year on payment to the State Government of such rent as the Deputy Director may determine;

(iii) on the expiry of the said agricultural year, the displaced person shall vacate the land, and if he fails to do so, he shall be liable to be summarily evicted in accordance with the provisions of the Code;

(iv) after the displaced person vacates, or is evicted from the land as provided in condition (iii), the land may be disposed of in accordance with the provisions of the Code and the rules made

thereunder in respect of grant of Government lands on payment of occupancy price;

(v) if the displaced person fails to pay the rent, it shall be recoverable from him as an arrear of land revenue.”

11. *We accordingly find that all the contentions as raised by the petitioner are without any basis and are totally unmindful to the applicable provisions of law. Section 16 was certainly not applicable in the given facts. It was the 1976 Act which was applicable under which no contention can be asserted. The petitioner has completely overlooked such legal position.*

12. *A relief of such nature, even otherwise cannot be granted after about 33 years from the date of land acquisition. The petition is also hopelessly barred by delay and laches. For such reasons, there is no warrant whatsoever to consider the prayers as made in the petition.”*

5. Applying the aforesaid principles, the reliefs as prayed for in these Petitions cannot be granted. Also in the present facts, Section 16(2)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 itself is not applicable considering the antiquated date of land acquisition. Even otherwise, relief of the nature as prayed for cannot be granted after about 47 years from the date of acquisition for any directions to be issued to the State Government, to issue notice under Section 16(2)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999.

6. Thus, looked from whichever angle, the present petitions cannot be entertained and are required to be dismissed considering the principles of law as discussed hereinabove. No case is made out for interference. Dismissed. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)