



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6949 OF 2016

Keshav Sandu Salampure & Another

....Petitioners

VERSUS

The State Of Maharashtra & Others

.....Respondents

.....

Mr. S.D. Kotkar, Advocate for the Petitioners

Mr. G.A. Kulkarni, AGP for State

Mr. S.V. Deshmukh, Advocate for respondent No. 3

WITH

**CIVIL APPLICATION NO. 11236 OF 2023
IN WP/6949/2016**

.....

**CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL JADHAV, JJ.**

DATE : 10th NOVEMBER, 2025

ORDER :

1. By this petition filed under Article 226 and 227 of the Constitution of India, the petitioners challenge the final award dated 20.01.2012 passed by respondent No. 4 to the extent of Gat No. 65 admeasuring 76 Are situated at village Golwadi, Tq. & Dist. Aurangabad and further seek a direction to respondents to accept the request of the petitioners for surrender of said land and allot 75% of the undeveloped land in the same Nagar i.e. Waluj Project in Growth Centre-1 at Nagar-IV.

2. The State of Maharashtra has issued notification in exercise of power conferred by Clause B of sub section (1) of Section 40 of the Maharashtra Regional & Town Planning Act, 1966 (for short 'MRTP Act') on 07.10.1991. Draft development plan for Waluj notified area was published in the year 1992. The land of the petitioners bearing Gat No. 65 admeasuring 76 Are was shown reserved for Growth Centre-1 in Waluj Nagar-IV. On 14.08.2001 development plan was sanctioned by the State and it came into force w.e.f. 01.10.2001.

3. On 21.10.2010 notice under Section 9(3)(4) of the Land Acquisition Act, 1894 (for short 'said Act') was issued to the petitioners stating that notification is issued on 14.10.2010 under Section 6 of the said Act read with Section 126(4) of the MRTP Act in daily newspaper 'Prasar' and 'Tarun Bharat'. It was mentioned that land Gat No. 65 admeasuring 76 Are situated at Golwadi will be acquired for the development of Waluj town under the notification. Petitioners filed objection to the said notice on 30.11.2010. No response was received to the said objection of the petitioner. On 04.02.2012, respondent No. 4 issued a notice under Section 16 of the said Act for possession of the property of petitioners. In the said notice calculation of compensation was given.

4. Petitioners have filed the present petition contending that they did not receive the compensation till the date of filing of the petition. Petitioners though applied for the final award, copy of the same was not made available to the petitioners. The petitioners obtained copy of the final award dated 20.01.2012 under the Right To Information Act. Petitioners, have therefore filed the present petition for the aforestated reliefs.

5. Respondents have opposed the petition contending that once the final award is passed petitioners are not entitled to claim the relief of alternate site. In support of said submission, reliance is placed on the order passed by this Court in Writ Petition No. 6872 of 2011 and connected writ petitions dated 30.04.2012. It is further contended that petitioners have already approached the competent authority for enhancement of compensation under Section 28(A) of the said Act. It is further contended that petitioners have belatedly approached this Court. Respondents therefore submit that there is no merit in the petition and the same may be dismissed.

6. In Writ Petition No. 6872 of 2011, in similar facts, this Court has observed thus;

“33. It is apparent from Sub-sections (2) and (4) of Section 126 of the said Act of 1966 that the declaration made thereunder partakes the character of a declaration under Section 6 of the

said Act of 1894. It is obvious that the question of offering voluntary surrender of the land will arise only before the notifications under the aforesaid provisions are issued. The offer of surrender is meaningless after the process of acquisition commences by notification under Section 126(4) of the said Act of 1966. Therefore, the offer of voluntary surrender has to be made before the notification under Sub-section (4) of Section 126 of the said Act of 1966 is published. Only if an offer of voluntary surrender is made before publication of such notification, then the owner will get benefit of the provisions requiring option to be given to the owner of getting the land in exchange of the land offered over and above 25 per cent of the land held by him. In the present case, admittedly before publication of the notification, no such offer was made by the petitioners. The question of executing the agreement would have arisen provided any such offer was made by the petitioners. Therefore, even assuming that no time was stipulated for executing the agreement, the petitioners cannot take benefit of the omission to specify the time.”

7. In the present case, admittedly, petitioners have not applied for surrender of their land and have not requested for alternate land from the same area before issuance of notification under Section 126(4) of the said Act. Therefore, in view of the aforesaid observations the petitioners are not entitled for the relief of alternate land.

8. There is merit in the submission of respondents that petitioners have approached this Court after the delay of six years from the date of notification and four years from the date of award. Fact remains that petitioners were granted compensation and they

have also approached the competent authority for enhancement of the same.

9. In the backdrop of aforestated facts, there is no merit in the present petition. The writ petition is therefore dismissed.

10. In view of dismissal of writ petition, civil application is disposed of.

(VAISHALI PATIL JADHAV, J.)

(NITIN B. SURYAWANSHI, J.)