

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

WRIT PETITION NO. 1913 OF 2016

Shri Nathyaba Jagannath Sonwalkar

.Petitioner

Age : 52 yrs, Occu : Agri.
R/o. Vadle, Post : Dudhebavi,
Tal. Phaltan, Dist. Satara.

Vs.

1. **The State of Maharashtra,** .Respondents
Through its Revenue and
Rehabilitation Department.
2. **The Collector, Satara,**
District – Satara.
3. **The Deputy Collector and Special Land
Acquisition Officer** (Acquisition) No. 21,
Satara, District – Satara.
4. **The Deputy Collector** (Rehabilitation),
Satara, District – Satara.

Mr. V. S. Talkute, Advocate, for the Petitioner

Ms. Savina R. Crasto, AGP, for Respondent Nos. 1 to 4 - State

**CORAM : M. S. SONAK &
JITENDRA JAIN, JJ.**

DATE : 25.04.2025

ORAL JUDGMENT (PER : M. S. SONAK, J.)

1. Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.

3. The Petitioner seeks the following substantive reliefs by instituting this Petition.

“a. This Hon’ble Court be pleased to declare that proceedings pertaining to the acquisition of land bearing Land measuring 1 H 82 R from Gat No. 46, situate at Mouje Vadle, Tal. Phaltan, Dist. Satara are deemed to have lapsed in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

b. This Hon’ble High Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction and call for record and proceedings pertaining to judgment and order dated 01-08-2015 passed by the Ld. Additional Commissioner, Pune Division, Pune in Punarv/Appeal/SR/117/2014 and after examining the legality, validity and propriety of the same, this Hon’ble Court further be pleased to quash and set aside and further be pleased to allow the said Application.”

4. The Petitioner’s land was acquired vide Award dated 07.11.2000. The Petitioner’s case is that neither the possession of the acquired property was taken over, nor has the Petitioner been paid any compensation to date. Therefore, Mr. Talkute, learned Counsel for the Petitioner, relies on Section 24(2) of the Right to

Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (“**2013 Act**”). He urges that the acquisition, insofar as the Petitioner’s lands are concerned, is lapsed. He relies on *Indore Development Authority vs. Manoharlal & ors. 2020(8) SCC 129* to support this contention.

5. Ms. Crasto, learned AGP submitted that most of the persons whose lands were acquired under the very same Notification have already accepted the compensation amount. The State Authorities have also taken over possession. She submitted that the Petitioner wrote to the Additional Commissioner, Pune, for the release of his property from acquisition under Section 48(1) of the Land Acquisition Act, 1894. The Petitioner has produced a Certificate dated 27.01.2014 from the Taluka Agricultural Officer purporting to certify that the acquired land is non-cultivable land, that 0.80r land from out of Gat No. 46 is non-cultivable land, and 1h.02r is cultivable land. However, she submitted that this Certificate is suspicious for reasons in paragraph 11 of the Affidavit filed by Dr. Rekha Solanke, Deputy Collector (Land Acquisition) No. 21, Satara. For these reasons, Ms. Crasto submitted that this Petition may be dismissed.

6. The rival contentions now fall for our determination.

7. The Petitioner is concerned with land measuring 1H 82R

from Gat No. 46 at Mouje – Vadle, Taluka – Phaltan, District – Satara (“**Said Property**”), in respect of which a Notification under Section 4 of the Land Acquisition Act, 1894 was issued on 30.04.1998. This was followed by Section 6 Notification dated 12.05.1999. Finally, by Award dated 07.11.2000, the acquisition was stated to be completed and all that remained was payment of compensation and taking over of possession of the said property from the Petitioner.

8. However, the Petitioner has asserted in the Petition and the Respondents have admitted in the Affidavit-in-reply filed on 01.09.2017 that neither was the possession of the Petitioner’s said property taken over nor was the Petitioner paid any compensation under the Award dated 07.11.2000.

9. Section 24 of the 2013 Act reads as follows: -

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases. - (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),-

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act :

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

10. The above provision was interpreted by a Constitution Bench of the Hon'ble Supreme Court in the case of ***Indore Development Authority (Supra)***. The Hon'ble Supreme Court, in the specific context of Section 24(2) has held that deemed lapse of proceedings initiated under the 1894 Act is occasioned where Award under Section 11 of the 1894 Act has been made five years or more prior to the date of commencement of the 2013 Act, and the two conditions specified in Section 24(2) are cumulatively satisfied i. e. (A) possession of the acquired land has not been taken, & (B) compensation has not been paid. Even if one of these two conditions is not satisfied, the 1894 Act acquisition

proceedings shall not lapse.

11. In this case, the records do show that both the above conditions have been fulfilled, i. e., the possession of the acquired property was never taken over from the Petitioner, and no compensation was ever paid to the Petitioner for such compulsory acquisition. The return file has not contested the factual averments regarding non-receipt of compensation by the Petitioner or his dispossession from the acquired lands. Instead, the return categorically states that no compensation was paid to the Petitioner, and even the possession of the said property was never taken over from the Petitioner. The record also shows no mutation was carried out, and the Petitioner's name continues in the revenue records.

12. Dr. Rekha Solanke, Deputy Collector (Land Acquisition) No. 21, Satara, has filed an Affidavit on 01.09.2017 in this Petition. We appreciate this officer's candidness in stating the full facts in the Affidavit filed at the same time, not, in any manner, compromising the State interest. Specific paragraphs from this Affidavit are transcribed below for the convenience of reference:-

*"7. I say that after declaring the Award on 7.11.2000, the Taluka Agricultural Officer, Phaltan, forwarded his report to the Deputy Collector No. 21, stating that the land of the Petitioner admeasuring 1 H. 82 R. from Gut No. 46 is not cultivable land. Hereto annexed and marked as **Exhibit 3** is copy of the report issued by the Taluka Agricultural Officer, Phaltan. I say*

that at the time of joint measurement, nowhere, was it specified that the law of the Petitioner from Gat No. 46 is not a cultivable land. After receiving this report, the Deputy Collector (Land Acquisition), has not initiated any steps neither to take possession of the land, nor had made any payment to the Petitioner. I say that possession of the land admeasuring 1H. 82R. is with the Petitioner only.

I say that notice under Section 12(2) was not issued, it being a non-cultivable land, and therefore, the question of acquiring the land under the Land Acquisition Act 1984 does not arise.

*8. I say that as **the possession of the land of the Petitioner** is not acquired by **this Respondent**, there **no change** in the Mutation **Entry No. 1555**.*

9. I say and submit the question of declaring the proceeding pertaining to acquisition of land admeasuring 1 H. 82 R. from Gut No. 46, cannot be admitted to have been lapsed in view of Section 24(2) of the new Land Acquisition Act, as maximum of beneficiaries specified in notification under Section 4(1) have already accepted amount of compensation and possession of the land has been taken.

*10. I say that it is wrong to say that the Respondents are going to insert the names in Record of Rights on the ground that the said property was acquired by an Award dated 7.11.2000. I say that **the property of the Petitioner is recorded in the name of the Petitioner as this Respondent has neither taken the possession from the Petitioner nor has paid any compensation amount.** Therefore, the question of Respondents inserting the name in the Record of Rights does not arise.*

11. I say that the Petitioner had made an application in 2014 to the Additional Commissioner, Pune, for

releasing his land from acquisition under Section 48(1) of the Land Acquisition Act, 1984. I further say that during the hearing, Additional Commissioner, Pune, the Petitioner had submitted the certificate dated 27.1.2014 issued by the Taluka Agricultural Officer, Taluka Phaltan, Dist. Satara, certifying that the land bearing Gut No. 46 admeasuring 0.80 R, is non cultivable land and 1H. 0.2 R is cultivable land, which is at Exhibit F to the petition. The certificate dated 10.2.2012, appears to be suspicious as the certificate dated 10.2.2012 is giving the reference of the letter issued by the Taluka Agricultural Officer, Taluka Phaltan, Dist. Satara, dated 27.1.2014, which means that the certificate dated 10.2.2012 has given reference of future letter dated 27.1.2014. Therefore, the certificate dated 10.2.2012 annexed to the petition at Exhibit F, appears to be suspicious.

I say that it is admitted that the Respondents have not taken the possession of land admeasuring 1 H 82 R, nor paid the compensation. However, compensation in respect of majority of land holdings have been deposited in the account of the beneficiaries.

In view of the above facts and circumstances, I respectfully say and submit that the present writ petition may kindly be dismissed.”

(Emphasis supplied)

13. Thus, the two conditions prescribed under Section 24(2) of the 2013 Act are duly fulfilled in this case, and the Petitioner, therefore, would be entitled to a declaration that the land acquisition proceedings insofar as the said property is concerned have lapsed.

14. Ms. Crasto's contention that several other persons from the same Notification have accepted the compensation or surrendered the possession is not a circumstance to deny the Petitioner's relief. The Respondents admit that the Petitioner has not been paid any compensation, and the possession of the said property has not been taken over from the Petitioner. Therefore, insofar as the Petitioner's said property is concerned, the acquisition can be said to have lapsed given the provisions of Section 24(2) of the 2013 Act as interpreted by the Constitution Bench in *Indore Development Authority (Supra)*.

15. The circumstance that the Petitioner may have applied to release his land under Section 48(1) of the 1894 Act is also quite irrelevant. The issue of the Certificate issued by the Taluka Agricultural Officer is also quite irrelevant, and there is no point in going into the issue of the Certificate being suspicious or otherwise. Whatever the fate of the Certificate, the present acquisition proceedings stand lapsed given the provisions of Section 24(2) of the 2013 Act as interpreted by the Constitution Bench in *Indore Development Authority (Supra)*.

16. For the above reasons, we allow this Petition in terms of prayer Clause (a) and declare that the acquisition of the Petitioner's said property is deemed to have lapsed, given the provisions of Section 24(2) of the 2013 Act. Since the acquisition

proceedings have lapsed, the Additional Commissioner's Order dated 01.08.2015, seeking withdrawal from acquisition or seeking the release of the Petitioner's said property from acquisition, becomes redundant. Accordingly, even the same is quashed and set aside.

17. The Rule is accordingly made absolute in terms of prayer Clauses (a) and (b) without any order for costs.

18. All concerned to act on an authenticated copy of this order.

(JITENDRA JAIN, J.)

(M. S. SONAK, J.)