

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2877 Of 2024

DEEPAK TILES AND INDUSTRIES PVT LTD AND ANR ...Petitioners

VS

THE STATE OF MAHARASHTRA AND ORS

...Respondents

Mr. Ashutosh A. Kumbhakoni, Senior Advocate with Mr. Manish Kelkar with Sakshi Bhosale, for Petitioners.

Mr. B. V. Samant, Addl. Govt. Pleader for State/Respondent Nos.1, 2, 5 to 9.

Mr. Sameer N. Patil, for Respondent Nos. 3 & 4 / CIDCO.

CORAM: **G. S. KULKARNI &
AARTI A. SATHE, JJ.**

DATE: **29 SEPTEMBER 2025.**

P.C.

1. There is something fundamentally wrong in the present proceedings. We say so considering the history of litigation in this case and most importantly the State Government taking a stand as urged before us by Mr. Samant, learned AGP. The petitioners' land was subject matter of acquisition in respect of which an award was rendered in the year 1986. Initially land admeasuring 4 acres and 15 gunthas, the subject matter of Survey No.56/1 was allotted to the petitioner by the State Government. However, there was no Sanad issued as contended by Mr. Kumbhakoni, learned Senior Counsel for the petitioners. There were prior attempts for resumption of the land by the State Government, however, such attempts failed and more pertinently considering the orders passed by this Court in Writ Petition No.4824 of 1986 decided by a judgment and order dated 7 February 1996 in which the said petition was allowed in terms of prayer clause b(i), whereby the State's order of resumption was quashed and set aside with a

direction to the Special Land Acquisition Officer (SLAO) to release the amount of compensation to the petitioner within four weeks from the date of such judgment and order, against the delivery of possession. This appears to be on the footing that the acquisition in respect of the said land for the purpose of City and Industrial Development Corporation of Maharashtra Ltd. (CIDCO) stood completed under a valid award as declared under Section 11 of the Land Acquisition Act, 1894 (for short 'L.A.Act,1894'). The operative portion of the said order is required to be noted, which reads thus:

“11. In the result, the petition succeeds partly. Rule is made absolute in terms of prayer clause b(i). The Special Land Acquisition Officer is directed to release the amount of compensation to the petitioner within 4 weeks from the date of this order against the delivery of possession.

12. Mr. Walawalkar brought to our notice that the petitioners could not make reference within the period of limitation because of the letter from the Special Land Acquisition Officer that they are not entitled to payment of compensation and therefore, time to make a reference application under section 18 should be counted from the date of our order and not from the date of the award. We are of the opinion that the entire period from 25th September 1986 till this order is liable to be excluded as the offer was withdrawn by the Special Land Acquisition Officer. The Collector shall accordingly compute the period of limitation in entertaining the petitioner's application under section 18.

No orders as to costs.

C.C. expedited.”

2. However, what happened thereafter is quite peculiar. The petitioner in pursuance of the liberty granted in the aforesaid order, approached the SLAO by making a reference under Section 18 of the Land Acquisition Act, 1894 for enhancement of compensation on the ground that it was specifically permitted to the petitioner to do so, under paragraph 12 of the said order. The said reference

under Section 18 of the L.A. Act 1894 as made by the petitioner was filed with the SLAO on 11 March 1996, for a reference to be made to the District Court. In such reference application a categorical plea was taken that no award was published, as seen from the ground “K” as also in ground “O” which are required to be noted which read thus:

K) The claimant became the absolute owner of suit land vide said allotment order thus became the interested person in the said land within the meaning of the provisions of 1894 Act. In other words the unlawful actions taken by the S.L.A.O. and collector prior to 31/10/85 are no way concerned and binding on the claimant. In the circumstances, no market value of land under reference was considered and declared by the award by the opponent. The Government was desire to acquire the claimant's said plot of plot of N.A. Industrial land inspite of the fact that the applicants have developed it for erecting factory of tiles and cement pipes. The opponent must have published award considering this fact. The claimant states that no award is published of land under reference by the opponent though this land was owned and it is transferred to the claimant. In view of this legal position, the acquisition of this plot of land made by in law under the circumstances the acquisition has to be considered as on the date of the orders of Honourable High Court for considering market value as per provisions of L A ACT 1896.

.....

O) The claimant submits that no award was declared in this case by illegalnations, adamant view and without any application of mind. The same is evident from the fact that the essential details with regard to the land under acquisition have been ignored while passing orders in this case of acquisition which was done in haste and without considering legal aspect.”

3. The said reference since has remained pending. However, what is pertinent to be noted is that the reference which was made specifically on the ground that no land acquisition award was published and in the absence of the award itself, as to how a reference could be made, was the question which was to be immediately addressed by the SLAO. However, for the first time after 24 years

a communication came to be addressed to the petitioner by the Deputy Collector (Land Acquisition) Metro Centre 1, Panvel dated 15 December 2020 in the context of the petitioners' Section 18 reference application dated 11 March 1996 to the effect that such reference application is not maintainable inasmuch as the land acquisition award in relation to Survey No.56/1, was not annexed to the reference application, and for such infirmity, such reference application cannot be filed in the Court and for such reason reference application dated 11 March 1996 as filed by the petitioners was disposed of. By virtue of the said communication dated 15 December 2020 by the Deputy Collector, a peculiar situation is brought about that although this Court by the judgment and order dated 7 February 1996 has granted liberty to the petitioner to make a reference and the reference having remained pending, the same now has been disposed of, for the award not being annexed.

4. In our opinion, such communication appears to be without application of mind inasmuch as the petitioners in reference application have clearly made averments (supra) that the Award has not been published. Be that as it may, such reference would have been inconsequential inasmuch as the award itself was declared and/or was not forthcoming from the respondents more particularly from the SLAO-respondent No.4, the Additional Collector & Chief Land and Survey Officer (Land Acquisition), and the Deputy Collector (Land Acquisition)-respondent No.5.

5. Peculiarity of the case does not stop here, as Mr. Kumbhakoni has shown

us another communication dated 26 May 2022 by which, now for the first time it is informed that in the year 2003 there was a theft in the office and 493 files were stolen, in respect of which an FIR has been lodged, as despite search such files could not be traced. This is in the context of the fact that the land was acquired and the CIDCO's name was required to be incorporated in the land records. Most surprisingly, an FIR itself was lodged on 13 April 2022 which was just some time prior to the communication dated 26 May 2022 being issued by the Deputy Collector (Land Acquisition) to Tahasildar, Panvel. What is also significant to be noted is that this is an internal communication and there is no direct communication issued to the petitioners that the land acquisition award in respect of the petitioners' case is stolen/lost. Further, as to how for a theft which, according to the said officer, had taken place in the year 2003 an FIR could be lodged on 13 April 2022, is something which the officer needs to answer to the appropriate Higher officials. The reason being that it cannot be that these officers are being so casual with the government records and that too in an important issue like acquisition of land for the purpose of CIDCO. We are surprised as to how an action was not taken for these many years, is the larger issue and which requires criminal action as also a departmental inquiries to be undertaken.

6. It is on such backdrop, it appears that further steps were taken by respondent Nos.4 and 5 namely that a fresh notification dated 2 February 2019 was issued under the provisions of Section 4¹ of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,

1 4. Preparation of Social Impact Assessment study

2013 (for short “**2013 Act**”), and thereafter, a notification is issued under Section 11 of the 2013 Act, notifying that the petitioners’ land bearing Survey No.56/1, 1H 77 ares is being acquired for the purpose of Navi Mumbai project that is for CIDCO. No steps are taken, to take forward this notification to the logical conclusion, is the contention of the petitioners. It is in such context the present petition is filed praying for the following reliefs:-

- “a) Rule be issued and record and proceedings be called for;
- b) The Hon’ble Court be pleased to issue a Writ of Mandamus and/or any other Writ, Order or Directions in the nature of Writ under Article 226 of the Constitution of India-
- i) Ordering and/or directing the Respondents to acquire the Petitioners’ said land bearing Survey No.56/1 adm. 4A 15 guanthas from village Navade, Taluka Panvel, District Raigad under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and pay the compensation to the Petitioners as determined under the Act as early as possible and within such period as may be directed by the Hon’ble Court;
- ii) To quash and set aside the letter dated 26.05.2022 issued by the Dy. Collector (Land Acquisition), Metro Centre No.1, Panvel to Tahasildar Panvel;
- iii) To quash and set aside the letter dated 07.09.2022 issued by the Additional Collector and Chief Land Survey Officer (Land Acquisition) CIDCO to Tahasildar Panvel;
- iv) To quash and set aside the letter dated 19.09.2022 issued by the Tahasildar Panvel to Talathi saja Nawade;
- v) To quash and set aside the Mutation Entry No.1436 dated 20.09.2022 made by Talathi saja Nawade and certified by Circle Officer on 20.09.2022;
- vi) To order and direct the Respondents not to prohibit and restrain the Petitioners from using and developing the said land, S. No.56/1 adm. 4A 15 gunthas situate at Village Navade Taluka Panvel Dist. Raigad in exercising their rights of ownership title and possession of the land.”

7. We have heard learned Counsel for the parties, we have also perused the

record. At the outset, we made a query to Mr. Samant, learned AGP that if at all there is an award passed on 20 September 1986 as to whether the same is available. On instructions Mr. Samant, drawing our attention to the reply affidavit of Shri.Dattatray R. Nawale, Deputy Collector (Land Acquisition) Metro Center No.1, Panvel, and more particularly paragraph 6(e) wherein it is stated that the award in regard to the land at Survey No.56/1 is not available in the respondent's office and despite due diligence the record could not be traced. There is also a reference to the FIR dated 13 April 2022 in paragraph 6(f) of the affidavit. Perusal of the FIR indicates that the complaint as made is quite serious and which pertains not only to the petitioners' land but also to large number of other lands.

8. As to how on such issue as serious as this, no action is taken by the Higher officials, is the question. We are also not aware as to what further steps were undertaken to investigate as per the complaint recorded in the FIR. Thus, it is clear that neither at the time when the petitioner filed a reference application, any record was available nor there is any document on record of the land acquisition award of the year 1986. There is nothing on record to show that from the date of declaration of the said award upto the year 1996, the award was served on the petitioner in a manner known to law.

9. The aforesaid facts clearly indicate that there is something more than what meets the eye. There appears to be some gross illegality and connivance of certain land holders, to the effect that the land which was allotted by the petitioner to the

State Government, also was involved and the only position as created and as presently available on record of the State Government is that as there is nothing to indicate that the land was acquired in a manner known to law under the procedure which was set into motion about more than 40 years back, culminating into an award dated 20 September 1986. It appears that on such backdrop the recent notifications under Section 4 and Section 6 of the 2013 Act came to be issued, which the petitioners now contend that the same are required to be taken forward under the 2013 Act or such proceedings ought to be dropped.

10. It is in such context, the provisions of Section 24 of the 2013 Act have become relevant which provides that the land acquisition process under the Land Acquisition Act, 1894 shall be deemed to have lapsed in certain cases and one of the situation being that no award under Section 11 of the Land Acquisition Act, 1894 has been made. Thus, Section 24 of the 2013 Act becomes applicable in such circumstances. Section 24 of the 2013 Act read thus:

“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, ~~(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, 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.”

11. In the aforesaid circumstances, there is much substance in the petitioners’ contention that the Section 11 notification as issued under the 2013 Act in regard to the petitioners’ land is required to be taken to its logical conclusion by completing the land acquisition proceedings as initiated under the provisions of the 2013 Act. The petitioners cannot remain in a suspended animation for such long period, as already from the period since the year 1996 the said land has been subjected to acquisition, however, the acquisition could not be completed as discussed in the foregoing paragraphs.

12. It also appears to be not in dispute that the logical conclusion of Section 11 notification would be as to what Section 15 would provide, that is, for hearing of objections and a report to be made in regard to the objection. However, we are informed that in terms of sub-section (3) of Section 15 there is no decision of the appropriate Government on the objection as raised to the notification issued under Section 11(1) of the 2013 Act. In this view of the matter, we are informed that Section 19(7) of the 2013 Act would become applicable inasmuch as when no declaration is made under sub-section (1) within twelve months from the date of preliminary notification, then such notification shall be deemed to have been

rescinded, is what is provided for. In this view of the matter, Section 11 notification itself cannot be taken forward and would be required to be considered to have lapsed. In the event, the State Government desires that the land of the petitioners needs to be still acquired for the purpose of Navi Mumbai project, a fresh procedure would be required to be set into motion.

13. In these circumstances, it is in the interest of justice that the petition be disposed of in terms of the following order:-

ORDER

(i) The Section 11 Notification dated 2 February 2019 issued under the 2013 Act as having stood lapsed, the State Government is free to issue a fresh notification, if there is any intention to acquire the petitioners' land bearing Survey No.56/1 by following the procedure under the provisions of the 2013 Act.

(ii) For the reasons as recorded hereinabove, it is declared that the purported Award dated 20 September 1986 itself was a non-sequitur, as there is no award declared under the Land Acquisition Act, 1894 and hence, for all purposes there is no acquisition under the Land Acquisition Act, 1894. As also a reference under Section 18 of the said Act, rightly could not be made as already rejected and disposed of by a communication dated 15 December 2020.

(iii) As there is no Land Acquisition award qua the said land as

on date, all consequential actions be restored by the Revenue Department, which shall be undertaken within a period of two weeks from today.

(iv) With the aforesaid directions, the petition is disposed of, keeping open all the contentions of the parties.

14. Before parting we may observe that the Court cannot shut its eyes in respect of such happening in regard to alleged theft of 2003, the purported FIR as filed in the year 2022 and no action being taken by the State Government on any of the issues. We accordingly direct the Principal Secretary, Revenue and Forest Department to undertake a departmental enquiry on all such actions in regard to the acquisition of the land in question which is of the year 1986 and more particularly subject matter of complaint in the FIR dated 13 April 2022 ("Ex. AS" page 300 to the petition). This more importantly, considering the seriousness of the issue as involved, we accordingly direct the Principal Secretary, Revenue Forest Department to take up and pursue the proceedings with the Commissioner of Police, Navi Mumbai, in regard to the said FIR, so that the same is investigated and taken to the logical conclusion, as it cannot be that such large scale government documents and pertaining to the awards in respect of several lands, which according to the department, culminated into awards, were stolen and no action whatsoever was taken in this regard. In regard to the further actions which are taken, a compliance affidavit be placed on record by the Principal Secretary on or before the adjourned date of hearing.

15. The proceedings are made returnable for such compliance on 17 November 2025. First On Board.

16. We have clarified that insofar as the acquiring body is concerned, the acquiring body has no role to play at this stage, untill the lands are acquired. We may also clarify that thus insofar as the CIDCO is concerned, unless the land is acquired and vested in it by the State Government, it has no role to play.

17. Disposed of in the aforesaid terms. No costs.

(AARTI A. SATHE, J.)

(G. S. KULKARNI, J.)