IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12504 OF 2015

Mr. Kundalika Narsu Mhaske (Decd) Thr Lrs. ...Petitioners

Versus

State Of Maharashtra, Through Secretary, Revenue And Forest Dept And Others ...Respondents

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None for the Petitioner.
Mr. A.P.Vanarase, AGP for the Respondent-State.

CORAM : SHARMILA U. DESHMUKH & ABHAY J. MANTRI, JJ.

DATE : OCTOBER 28, 2026

P. C. :

1. None appears on behalf of the Petitioner. The Petition is of the year 2015 and is still awaiting admission. With assistance of learned AGP, we have perused the papers and proceedings.

2. By the present Petition, the Petitioner seeks a declaration of lapsing of reservation under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "**Fair Compensation Act**"). It is pleaded in the Petition that the Petitioner is the owner of the subject land, which came to the share of the Petitioner in partition in the year 1968, and there was further partition in the year 1976. There was subsequent sale by the Petitioners in the year 1979, and in the

meantime, notification under Section 11 of the Maharashtra Resettlement of Project Displaced Persons Act, 1976 came to be issued on 13th May, 1977. The notification under Section 4 of the Land Acquisition Act, 1894 (for short "**Land Acquisition Act**") was issued on 19th December, 1983 and Section 6 notification was issued on 11th December, 1986. Section 11 Award was declared on 24th February, 1989. In view of the alienation of land by the Petitioner, a challenge was raised by the Petitioner to the acquisition which came to be dismissed right up to the Hon'ble Apex Court. The Petition pleads that possession of the land was not taken and Revision Application under Section 48 of the Land Acquisition Act was filed, which came to be dismissed. Regular Civil Suit No. 371 of 1997 was filed challenging the acquisition proceedings, which was held to be not maintainable. On 1st October, 2010, this Court held that the application under Section 48(1) was not maintainable, as possession was already taken.

3. The Petition came to be amended subsequently in view of the Section 24 of the Fair Compensation Act and relief of lapsing of reservation was sought on the ground that the compensation awarded has not been deposited with the Court.

4. Affidavit-in-reply of the Deputy Collector, Land Acquisition dated 13th June, 2017 states that the possession of the land was taken and Section 12(2) notice under the Land Acquisition Act was issued on 13th

June, 1989, however, the Petitioner did not come forward to collect the compensation, which is now lying in the Personal Ledger Account. To support the contention of possession having been taken, reference is made to the possession receipt dated 7th July, 1989 and Mutation Entry No. 834 recording transfer of the said land.

5. Having failed in all attempts to avoid acquisition of proceedings, resort has been taken to the provisions of Section 24(2) of the Fair Compensation Act. The law is now well settled by the Hon'ble Apex Court in the case of ***Indore Development Authority vs Manoharlal And Others***[1]***,*** which has held that the expression "or" used in Sub-Section 2 of Section 24 is to be read as "and", and it is only where the physical possession of the land has not been taken and compensation has not been paid, that the lapsing would occurred.

6. In the present case, the application filed under Section 48 of the Land Acquisition Act was itself disposed of on the ground that the possession has been taken. The ingredients of lapsing as set out in Section 24(2) of the Land Acquisition Act are not satisfied. In view thereof, the reliefs sought in the Petition are clearly unsustainable.

7. Resultantly, the Petition fails and stands dismissed

[ABHAY J. MANTRI, J.] **[SHARMILA U. DESHMUKH, J.]**

1 (2020) 8 SCC 129