



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15016 OF 2022

Parshuram Shivram Shitole and Ors. .. Petitioners

V/s.

The Special Land Acquisition Officer .. Respondents
No.17 And Ors

Mr. Nitin P. Deshpande with Anjali Shinde, Rachana Harpale and Santosh Kurade, for Petitioner.

Ms. M.S. Bane, AGP, for the State.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.

DATE : 22ND JANUARY 2026.

PC:

1. Heard the learned counsel for the Petitioner and learned AGP for the Respondent-State Authorities.

2. The Petitioners herein are seeking relief of quashing of land acquisition award dated 7th May 2012, on the basis that the entire land acquisition proceeding culminating into the said award itself lapsed by the operation of law.

3. Reliance is placed on Section 11A of the Land Acquisition Act, 1894, to contend that in the facts of the present case, two year period from the date of publication of the declaration under Section 6 of the said Act had already lapsed before the award was passed.

4. In order to support the aforesaid contention, the learned counsel appearing for the Petitioners referred to the contents of the award. It was submitted that the award itself records that the last date of publication of declaration under Section 6 of the Act was 2nd May 2010 in the Talathi office. The two year period for passing the award expired on 1st May 2012 and admittedly the award was passed on 7th May 2012, after the two year period expired. It was further submitted that in the present case, there was no interim stay to the acquisition proceeding by order of any Court and therefore, the explanation to Section 11-A of the said Act does not apply and on this ground itself the Petition deserves to be allowed.

5. Since the Respondents, in their reply affidavits, relied upon a document purportedly issued by the Talathi stating that the declaration under Section 6 of the said Act was published on the Chawdi on 12th May 2010, we had requested the learned AGP to bring the original file to understand the true nature of the aforesaid document.

6. Learned AGP further submitted that in the present case, apart from placing reliance on the said document, this Court ought not to entertain the present writ petition on the ground of delay and laches. It is submitted that the award was passed way back on 7th May 2012, while the Writ Petition was filed in May 2021.

7. Reliance was placed on the Judgement of the Supreme Court in the case of **'Banda Development Authority, Banda Vs. Motilal Agarwal and Ors'**¹ to contend that in similar circumstances when the

1 (2011) 5 SCC 394

original Petitioner before the High Court in the said case had invoked writ jurisdiction after about nine years, claiming lapsing of acquisition under Section 11A of the said Act, the Supreme Court held that the High Court was in error in entertaining the Writ Petition. The order of the High Court was set aside and the Writ Petition was dismissed. It was further submitted that this Court may follow the same course of action.

8. Another contention was raised by the learned AGP in the present case that the beneficiary of the acquisition i.e. the Executive Engineer, Irrigation Department was not made a party and therefore, the Petition ought not to be entertained.

9. Learned counsel for the Petitioner, in support of the petition invited attention of this Court to a judgement of a Division Bench of this Court in the case of **'Mrs. Sumitra Shridhar Khane Vs. The Deputy Collector, Special Land Acquisition No. 12'**², to contend that in the said judgment, the Division Bench of this Court reiterated the importance of Article 300-A of the Constitution of India pertaining to the right to property of individuals and in that context further stated that the question of delay was irrelevant.

10. It was submitted that this Court may allow the Petition in the face of the admitted position on facts that the award was passed after the period of two years had already lapsed.

11. We have considered the rival contentions. On the question of delay and applicability of the judgment of the Supreme Court in the

2 Order dt. 02.05.2025 in Writ Petition No. 4987 of 2022 and connected Writ Petitions of Bombay H.C.

case of **'Banda Development Authority, Banda Vs. Motilal Agarwal and Ors** (supra), we find that the Supreme Court in the said case was concerned with a matter where possession of the subject property had already been taken by recourse to the urgency clause in Section 17 of the said Act. In such a factual matrix, the Supreme Court held that Section 11A of the Act would not apply and that in any case, in the face of admitted delay of nine years in approaching the writ Court, the original Petitioners therein did not deserve any consideration.

12. The aforesaid judgement of the Supreme Court is therefore distinguishable on two aspects. Firstly, in the present case, admittedly, Section 17 of the aforesaid Act was not invoked and this is not a case where possession of the subject property was taken by recourse to the urgency clause. Secondly, a perusal of the original file shows that notices under Section 12(2) of the said Act were issued to the Petitioners only on 21st December 2019, which were received on 7th January 2020. The Petitioners, therefore, were furnished a copy of the award only on 7th January 2020. They filed the present Writ Petition in May 2021, thereby indicating that the Writ Petition cannot be said to be hit by delay and laches. Even if the ratio of the judgment in the case of **'Banda Development Authority, Banda Vs. Motilal Agarwal and Ors'** (supra) is to be applied, it was held therein that although writ jurisdiction does not countenance any period of limitation, in ordinary course, the aggrieved person is expected to approach the writ Court within the time period of limitation specified for an aggrieved individual to approach the Civil Court, meaning thereby that such an aggrieved person is expected to approach the writ Court at least within three years.

13. Applying the said position of law, to the facts of the present case when the copies of the award were furnished to the Petitioners for the first time on 7th January 2020, in pursuance of notices issued under Section 12(2) of the said Act dated 21st December 2019 and the present Writ Petition was filed in May 2021, it cannot be said that the Writ Petition is hit by delay and laches.

14. There is substance in the contention raised on behalf of the Petitioners by relying upon the judgement of this Court in the case of **‘Mrs. Sumitra Shridhar Khane Vs. The Deputy Collector, Special Land Acquisition No. 12** (supra), wherein significance of Article 300-A of the Constitution of India has been reiterated. Article 300-A of the Constitution provides that no person shall be deprived of his property save by authority of law. Although the said right has ceased to be a fundamental right and is now only a constitutional right, it would be a mockery to reject the claim of the Petitioners herein despite they having made out a clear case of lapsing of acquisition on the basis of the admitted position on facts.

15. If the claim of the Petitioners is rejected, it would amount to depriving them of their constitutional right under Article 300-A of the Constitution of India, because it would amount to the Petitioners being deprived of their property in the sense that the process of acquisition, despite having lapsed will have been upheld and this would amount to depriving them of their right to property without the authority of law.

16. We have perused the original land acquisition award produced before us. We find that the said award itself records that the

declaration under Section 6 of the aforesaid Act was last published on 2nd May 2010 in the Talathi Office. Hence, the award was required to be passed mandatorily on or before 1st May 2012. The original award itself shows that it was passed on 7th May 2012, beyond the period of two years, thereby showing that Section 11A of the Act applies with full force and there is no other conclusion to be reached but to hold that the entire land acquisition proceedings in the present case lapsed.

17. On this short ground, the award itself deserves to be quashed and set aside.

18. As regards the contention of learned AGP that the Executive Engineer, Irrigation Department should have been made a party, suffice it to say that when the land acquisition proceedings undertaken by the Competent Authority of the State i.e. Respondent No. 1, Special Land Acquisition Officer itself is found to have lapsed, it cannot be said that the Executive Engineer, Irrigation Department not being before this Court, makes any difference.

19. In view of the above, the Writ Petition is allowed in terms of prayer clause (A) and subject Land Acquisition award dated 7th May 2012 is quashed and set aside.

20. Needless to say, the Respondent-State authorities would be at liberty to initiate fresh land acquisition proceedings, in accordance with law.

21. Pending Applications, if any, also stand disposed of.

22. The original papers produced for the perusal of this Court

including the land acquisition award and the notices issued under Section 12(2) of the said Act, are returned to the learned AGP.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)