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

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WRIT PETITION NO. 12772 OF 2019

Vishnu Daulat Bandgar,)
Age: Major, Occ:Agriculturist,)
Residing at Pondawadi,)
Taluka: Indapur, District: Pune) ...Petitioner

Versus

- 1) The State of Maharashtra)
(Through the Secretary,)
Revenue and Forest Department)
Mantralaya, Mumbai)
- 2) National Highway Authority of India))
(Through Project Director))
Project Implementation Unit,)
Having office at S.No.134/1,)
BAIF Bhavan Campus,)
Dr. Manibhai Desai Nagar,)
Wajre, Pune- 411052)
- 3) The Divisional Commissioner,)
Pune Division, Pune)
- 4) Deputy Collector (Land Acquisition)))
No.17, Having office at)
New Administrative Building,)
Second Floor, D-Wing,)
Opposite Council Hall, Pune.)
- 5) Deputy Collector (Land Acquisition)))
No.19, Having office at)
New Collector Office, "A" Wing,)
Grond Floor, Pune)
- 6) Deputy Superintendent of Land)
Record, Indapur, District:Pune) ...Respondents

Mr. Laxman Deshmukh i/b. Prashant S. Hagare for the Petitioner.

Mr. A.R. Deolekar, AGP for State/ Respondent Nos. 1 & 3 to 6.

Mr. Sagar Varma (through VC) a/w. Mr. Sagar Ladda a/w. Mr. Bharat More a/w. Mr. Sarvesh Dixit, for Respondent No.2 (NHAI).

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 28 February 2025

ORAL JUDGEMENT : [Per M.S. Sonak, J.]

1. Heard learned counsel for the parties.
2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.
3. Our Coordinate Bench of this Court disposed of the petition by order dated 16 December 2019.
4. The petitioner challenged the above order by filing Special Leave to Appeal (C) No.11654/2021. By order dated 4 December 2024, the Special Leave to Appeal was allowed, and the matter was remanded for fresh consideration.
5. The Hon'ble Supreme Court's order dated 4 December 2024, which incorporates the order made by the Co-ordinate Bench of this Court on 16 December 2019, is transcribed below for convenience of this Court.

Order:

1. The present special leave petition is against the order of the High Court of Judicature at Bombay passed in Writ Petition 12772/2019 filed with the following prayers:

A) Direct the Respondents to determine and to pay forthwith the amount of compensation to the Petitioner in respect of Petitioner's land bearing Gut No.25, admeasuring 2H 01R, situated at Bandgarwadi, Taluka: Indapur, District: Pune with interest thereon from the date the said land has been acquired and for that purposes issue appropriate writ.

B) Direct the Respondents to determine and to pay amount of compensation to the Petitioner for having taken possession of Petitioners land bearing Gut No.25, admeasuring 30R situated at Bandgarwadi, Taluka: Indapur, District: Pune with interest thereon with from the date possession of the said land has been taken and for that purposes issue appropriate writlor order.

C) Pending hearing and final disposal of the Petition direct the Respondents to determine the amount of compensation of Petitioner's land bearing Gut No. 25 admeasuring 2H 87 R and also direct the Respondents to deposit the said amount of compensation in this Hon'ble Court with interest thereof from the date of possession of the said land has been taken.

D) Interim/Ad-interim relief in terms of prayer clause (C) above.

E) Pass any other relief as this Hon'ble Court deems fit and proper in the interest of justice.

2. The High Court, by the order impugned before us dismissed the Writ Petition on the ground of delay and laches. The short order of the High Court is as under:

"1. Learned Counsel for the Petitioner candidly states that the Petitioner has no grievance in respect of the 2nd acquisition of the year 2010.

2. So far as 1st acquisition is concerned, the same being of the year 1975, we are of the view that there is an inordinate delay on the part of the Petitioner to approach the Court for seeking compensation. It is an admitted position that possession of the land pursuant to the 1st acquisition was taken in the year 1975 for construction of the Pune Solapur National Highway. We therefore dismiss the Petition on the ground of delay and laches."

3. Mr. Sudhanshu Choudhary, learned senior counsel appearing for the petitioner submits that the issue relates

to acquisition of the year 1975, as well as acquisition dated 22.08.2010. It is in this context that he seeks to rely on letters dated 22.11.2017, 18.05.2018, 22.05.2018, 31.05.2018, 12.12.2018 and 09.08.2023. Mr. Aniruddha Deshmukh, learned counsel appearing for the State submits that the Writ Petition filed in the year 2019 is barred by delay and laches and there is absolutely no justification for invoking the judicial review proceedings so late.

4. It is evident from the order of the High Court that none of the submissions were taken into account. In this view of the matter and without expressing any opinion on the merits of the case, we deem it appropriate to remand the matter therefore set aside the order passed by the High Court, restore the writ petition to its original number for the purpose of deciding the case afresh and on its own merits. The State is at liberty to raise all such contentions and objections as may be permissible in law.

5. With these observations, the Special Leave Petition is disposed of

6. Pending application(s), if any, shall stand disposed of.”

6. Mr. Deshmukh, learned counsel for the Petitioner, has raised two grounds in this petition: -

(a) He submitted that petitioner's land bearing Gat No. 25, (Old Gat No.106) admeasures 3H 42R, out of which 02 H 01 R, situated at Village Bandgarwadi, Taluka Indapur, District Pune, was acquired between 1975-1977. But neither is any award available in support of such acquisition nor was the petitioner paid any compensation in respect of such acquisition. He submitted that delay in such matters is irrelevant. Given the provisions of Article 300A of the Constitution, the State must be directed to compensate the petitioner for acquiring 02 H 01 R of the petitioner's property. He relied on *Vidya Devi v. State of Himachal Pradesh and Others*¹, *Sukh Dutt Ratra and Another v. State of Himachal Pradesh and*

¹ (2020) 2 Supreme Court Cases 569

Others² and Urban Improvement Trust v. Smt. Vidhya Devi and Ors., Civil Appeal No. 14473 of 2024 decided on 13 December 2024 by the Hon'ble Supreme Court, in support of this ground;

(b) Mr. Deshmukh submitted that in 2010, once again petitioner's land from Gat No. 25 was acquired for winding of National Highway. He submitted that 0.87 R land was acquired. Still, compensation has been paid only for 0.59 R. He submitted that the National Highway Authority of India- NHAI has now filed an affidavit that 0.18R of the petitioner's land was acquired in excess. Therefore, on instructions, Mr Deshmukh submitted that the petitioner now presses for compensation for this additional acquired land measuring 0.18R. Mr. Deshmukh relied upon the affidavit-in-reply filed by Mr. Sanjay Kadam, the Project Director of NHAI, on 27 February 2025 in this petition in support of this ground.

7. Mr. Deolekar, learned Assistant Government Pleader, submitted that the relief concerning the 1975 acquisition is barred by inordinate and unexplained delay and laches. He argued that the petitioner, in his representation dated 24 May 2011, made almost 36 years after the acquisition, referred to the Section 6 Notification dated 22 November 1977. He asserted that after nearly 50 years, it would be unreasonable to require the State Government to locate the records of such acquisition and verify whether any compensation was paid to the petitioner or his predecessor. On instructions, he maintained that proper procedures were followed, and that compensation was duly paid. He also submitted that the decisions relied upon by the petitioner were based on their unique facts and were, therefore distinguishable. Furthermore, he submitted that the claims in the petition regarding

the land being acquired for NHAI are false, as NHAI did not exist in 1975 or 1977.

8. Mr. Deolekar submitted that relief regarding the excess land of 0.18 R could be considered given the NHAI's affidavit dated 27 February 2025. He submitted that the State Government/Competent Authority, based on the proposal of NHAI, will complete the acquisition process of this additional land within a reasonable period.

9. Mr. Sagar Verma, learned counsel for NHAI, submitted that the NHAI has no concern with the acquisition of 1975-1977 because it was not even in existence then. Regarding acquiring an additional area of 0.18 R, Mr. Verma relied upon the affidavit filed in this petition. He explained how compensation for this portion was paid to some other parties due to confusion about survey records. In any event, he referred to the correspondence annexed to the affidavit. He submitted that NHAI has already approached the State Government/Competent Authority to initiate proceedings to acquire this excess land measuring 0.18 R and recover compensation incorrectly paid to some other parties. He joined Mr. Deolekar in submitting that these acquisition proceedings would be completed within a reasonable period and compensation in respect of the excess area of 0.18 R would be paid to the interested parties in accordance with the law.

10. The rival contentions now fall for our determination.

11. Insofar as the second ground urged by Mr. Deshmukh is concerned, we find considerable merit in the same, now that the NHAI's affidavit supports the contention to the extent of excess acquisition of 0.18 R of the petitioner's property is concerned. Mr.

Deshmukh, on instructions, has now restricted the claim to receiving compensation in respect of this portion of 0.18 R.

12. Shri Sanjay Kadam, the Project Director of NHAI, in paragraphs 17 to 21 of his affidavit dated 27 February 2025, has stated the following:-

"17. That the answering Respondent, vide letter no.2153 dated:04/03/2024 (**ANNEXURE - R2**), it was addressed to the Competent Authority for Land Acquisition No.17, Pune to verify the exact measure of acquisition from the appropriate gat numbers in order to take further appropriate actions if any required. It was also informed that the said exercise is to be undertaken keeping in mind the observation that land ad-measuring 0.08 R from Gat No.25 belonging to the Petitioner has been acquired for building and construction of Khadakwasla Canal embankment, Pune. Furthermore, it has also come to light vide re-measurement dated: 22/01/2024 that additional 0.18 Hectare R land appears to be acquired from gat number adjacent to Gat No.25 of the Petitioner and hence, it was communicated that the report in the said context be called from the Deputy Superintendent of Land Records, Indapur, Pune to ascertain from which gat no. the land ad-measuring 0.18 HR is acquired.

18. That accordingly, the Deputy Superintendent of Land Records, Indapur, Pune addressed his report dated: 11/03/2024 (**ANNEXURE-R3**) to the answering Respondent wherein which it has been stated that additional 0.18 R land although acquired from gat no.25 of the Petitioner, it was notified as acquisition from adjacent gat nos.26 and 27 as 0.10 R and 0.07 R respectively.

19. That acting upon the report of the Deputy Superintendent of Land Records dated:11/03/2024, the answering respondent addressed its letter no. 878 dated: 11/03/2024 (**ANNEXURE-R4**) to the Competent Authority for Land Acquisition No.17, Pune. It was communicated that since the lands ad-measuring 0.17 R although acquired from gat no.25, have been notified as acquisition from gat no.26 and 27 and awarded accordingly, appropriate action be taken to recover the amount from the owners of the said gat nos.26 and 27 and further action be taken accordingly.

20. The Respondent further submits that subsequently, the competent authority forwarded its letter dated: 06/01/2025 to the answering Respondent apprising about the letter addressed by Dy. SLR, Indapur to CALA on

02/09/2024. That as per the letter dated: 06/01/2025 it has been informed by CALA that as per the latest joint measurement conducted by Dy. SLR, Indapur on Gat No.25 of the Petitioner, it appears that land ad-measuring 0.18 Hect. R has been acquired and as such a proposal for acquisition of the same may be forwarded by the office of the answering Respondent. That a copy of the letter dated: 06/01/2025 is being annexed herewith as **ANNEXURE-R5**.

21. That the answering Respondent vide its letter dated: 25/02/2025 has addressed and communicated to the Competent Authority that as per the latest JMS dated: 09/08/2024, land ad-measuring 0.18 Hectare R is falling under acquisition from Gat No.25. The certain extent of such 0.18 Hect R land came to be shown as acquisition from adjacent Gat Nos. 26 and 27 to the extent of 0.04 H.R. and 0.07 H.R. respectively. As such it has been requested that the compensation disbursed for such extent with the respective land owners of Gat Nos. 26 and 27 be recovered at the earliest to be disbursed with the Petitioner and subsequently, the proposal for acquisition of remaining 0.07 H.R. land of the Petitioner be processed at the earliest. That a copy of the said letter dated:25/02/2025 is being annexed herewith as **ANNEXURE-R6**."

13. We appreciate the fair stand taken by NHA and Shri Kadam in the above affidavit. This time, the relevant facts have been disclosed and the relevant correspondence is also placed on record.

14. The affidavit and submissions made by the learned counsel for the petitioner, the learned AGP, and Mr Verma clarified that the petitioner's land to the extent of 0.18 R was taken over without any formal acquisition proceedings or compensation payment. They pointed out that this was due to some confusion about survey numbers. The affidavit and statements made by the learned counsel based on instructions clarified that acquisition proceedings will now be initiated, and the parties interested will be duly compensated for this excess acquisition.

15. Though the learned AGP and Mr Verma have stated that this process would be submitted within a reasonable period, we direct that this acquisition process for an additional area of 0.18 R must be initiated

and completed within six months from the date of the uploading of this order. Within this period, compensation, as may be determined, must be paid to the petitioner and/or other interested parties following the law. There should be no further delay on this count, and a compliance report should be filed in this Court by NHAI and the Competent Authority by 31 August 2025. An advanced copy of this compliance report must be furnished to the learned counsel for the petitioner.

16. We clarify the initiation and conclusion of the acquisition proceedings, which will include payment of compensation to the petitioner or persons interested, must not be linked with the issue of recovery of compensation paid wrongly to some other persons. Such recovery, if necessary and justified, may proceed in accordance with the law, but that should not be linked with payment of compensation to the petitioner or persons interested because, on affidavit, it is now admitted that the petitioner's property to the extent of 0.18 R was taken over without any acquisition and for which no compensation has been paid.

16. Insofar as Mr. Deshmukh's first ground is concerned, we find it difficult to grant the petitioner any relief in the present case.

17. The petitioner claims that 2.01 HR of his property was acquired for NHAI in 1975-1977. The respondents have asserted, that there is no reason to disbelieve that NHAI was not even in existence during that period, and therefore, the acquisition of NHAI in 1975-1977 cannot be accepted. NHAI came into existence in 1988.

18. Though the petitioner has claimed to be an illiterate farmer, a reaction regarding the acquisition of 2.01 HR was expected within a reasonable period. Only after the proceedings in 2010 were initiated, proposing to acquire 0.57 R of the petitioner's property, did the petitioner react by claiming that 0.87 R was being acquired. Ultimately,

the Competent Authority determined that 0.59 R was being acquired, and the petitioner was duly compensated for the acquisition of 0.59 R.

19. after almost 36 years, the petitioner raised two grievances by his representation dated 24 May 2011. The first grievance was that the 2010 acquisition had acquired 0.87R, and the petitioner ought to be compensated for this excess land which was acquired. Now, this claim is reduced to compensation for excess land measuring 0.18R. Secondly, the petitioner, almost for the first time, referred to Section 6 Notification dated 22 November 1977 and claimed that 2.01 R of his land was also acquired under this Notification. He argued that no final award was made regarding this acquisition, and no compensation was paid.

20. In the entire petition, except for stating that the petitioner is an illiterate farmer, there is no explanation for this inordinate delay of at least 36 years as of 24 May 2011. In any event, this petition was instituted only in 2019, i.e. almost 45 years from the date of alleged acquisition and alleged non-payment of compensation to the petitioner. The delay between 2011 and 2019 is not explained except for repeating that the petitioner is an illiterate farmer.

21. In paragraph 26 of the petition, there is a statement that from 1980 onward, the petitioner was visiting the offices of the respondents and the first representation made by him was in 2011. This explanation does not inspire any confidence. The petitioner has himself referred to a notification under which the acquisition was undertaken. The petitioner has incorrectly attributed the acquisition to the NHAI, and NHAI was not even in existence at the time of the alleged acquisition. There is no material to show that since 1980, the petitioner has been pursuing the matter. But assuming this was so, there is no explanation for the inordinate delay in raising such a claim. No reason is given why, since 1980, no legal action was taken till the filing of the present petition.

22. The ruling of the Hon'ble Supreme Court in the case of *Urban*

Improvement Trust v. Smt. Vidhya Devi and Ors. (supra.) considered the earlier ruling in *Vidya Devi v. State of Himahal Pradesh and Others (supra.)* and *Sukh Dutt Ratra and Another v. State of Himachal Pradesh and Others (supra.)*. That was the case of a delay of 21 years. In paragraph 46, the Hon'ble Supreme Court has stated that while it is true that the courts have consistently held that undue delay in approaching the court can be grounds for refusing relief, the courts have also recognised that "*in exceptional cases*", where the impugned action is patently illegal or affects fundamental rights, the delay must be condoned".

23. In the facts before the Hon'ble Supreme Court, the Hon'ble Supreme Court found three instances of glaring procedural anomalies that shocked the conscience of the Court. Besides, in the case before the Hon'ble Supreme Court, there was no dispute on facts. The Hon'ble Supreme Court, therefore, held that the alleged patent illegality in the acquisition process justified condonation of delay "*in this exceptional case*".

24. The facts in the present case are not comparable to those before the Hon'ble Supreme Court. There is no clarity as to whether or not the acquisition proceedings, which, even according to the petitioner, commenced with the issuance of appropriate notification in 1975 and 1977, were culminated or not. There is no explanation for delay of almost 45 to 50 years in approaching this Court or raising grievances about non-payment of compensation.

25. A false assertion was made about the acquisition being for NHAI, and it is now admitted that NHAI was nowhere in the picture in 1975-1977. At this point in time, to require the Respondents to dig out old records regarding acquisition and

payment of compensation does not seem to be seen as appropriate in the facts of the present case. Except for repeating that the petitioner is an illiterate farmer, no exceptional circumstances are pleaded or established for condonation of this inordinate delay. The pleadings are also quite sketchy. There are disputed questions of fact because the State Government does not admit the allegations made by the petitioner.

26. For the above reasons, we partly allow this petition by directing the respondents, i.e. NHAI, the State Government and the Competent Authority to initiate and complete the acquisition of the petitioner's additional land to the extent of 0.18 R and pay compensation to the petitioner or persons interested following the law as expeditiously as possible. In any event, we direct that this exercise must be completed within six months of uploading of this order, and compliance report must be filed before this Court before 31 August 2025.

27. The Rule is made partly absolute to the above extent without any cost order.

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

(Jitendra Jain, J)

(M.S. Sonak, J)