

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 352 OF 2000

Nivrutti S/o Ramkrushna Mali,
Age : 58 Years, Occu. : Agril.,
(Since deceased through his L.Rs.)

- 1A Suresh S/o Nivrutti Mali (Salunke),
Age : 42 Yeas, Occu. : Agril.,
- 1B Machindra S/o Nivrutti Mali (Salunke),
Age : 40 Years, Occu. : Agril.,
- 1C Gorakh S/o Nivrutti Mali (Salunke),
Age : 40 Years, Occu. : Agril.,
- 1D Sow Hirabai W/o Nandkishor Chavan,
Age : 38 Years, Occu. : Agril.,
- 1E Sow Latabai W/o Dattu Thorat,
Age : 33 Years, Occu. : Agril.,
- 1F Sow Meerabai Bhausahab Shelar,
Age : 30 Years, Occu. : Agril.,
- 1G Smt. Gaubai W/o Nivrutti Mali (Salunke),
Age : 60 Years,

All R/o Kolhar (Bk), Tq. Shrirampur,
Dist. Ahmednagar.

.. Petitioners

Versus

- 1. The State of Maharashtra.

2. The Collector Ahmednagar.
3. The Special Land Acquisition Officer,
No. 19, Ahmednagar .. Respondents

Shri A. B. Kale, Advocate for Petitioners.

Shri S. G. Sangle, A.G.P. for Respondent Nos. 1 to 3.

Shri V. D. Hon, Senior Counsel i/by Shri A. V. Hon, Advocate for the Intervenor.

CORAM : S. V. GANGAPURWALA AND

A. I. S. CHEEMA, JJ.

DATE : 07TH MAY, 2015.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Mr. Kale, the learned counsel submits that, the notification U/Sec. 4 of the Land Acquisition Act (for short “L. A. Act”) was issued on 10th August, 1994. The same was published on 24.01.1995. The declaration U/Sec. 6 of the L. A. Act was published on 07.07.1999. According to the learned counsel, in view of Sec. 4 of the L. A. Act, the declaration U/Sec. 6 has to be made within one year from the publication of notification U/Sec. 4 of the L. A. Act. The learned counsel submits that, the corrigendum issued relates back to the date of publication of the original notification. The learned counsel relies on the judgment of the Apex Court in a case of **Mohan and another Vs. State of Maharashtra and others** reported in **AIR 2007 SC 2625** and another judgment **dated 25.03.2015** of the Division Bench of this Court in a case of **Madanlal Lalchand Jain**.

Vs. State of Maharashtra in Writ Petition No. 9009 of 2013.

2. Mr. Sangle, the learned Assistant Government Pleader submits that, the notification U/Sec. 4 of the L. A. Act was published on 29.01.1998. Thereafter, as there was some clerical error, Sec. 4 notification was again published on 29.10.1998. According to the learned A. G. P. from the date of issuance of corrigendum, the declaration U/Sec. 6 of the L. A. Act is within limitation. The status quo was granted by this Court on 03rd April, 2000, as such, further steps could not be taken.

3. We have also heard Mr. Hon, the learned senior counsel for the intervenor.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. Even according to the respondents/State notification U/Sec. 4 of the L. A. Act is issued on 29.01.1998 and the corrigendum published on 29.10.1998. In view of the judgment of the Apex Court in a case of **Mohan Vs. State** referred supra the period is required to be computed from the date of publication and not from the date of corrigendum. The Apex Court in the said judgment has observed as under :

"6. In our opinion under Section 11A what has to be seen is the date of last publication of the declaration under Section 6, and not any subsequent corrigendum to the said declaration. The only circumstance under which the period between the declaration under Section 6 and the award can be extended is mentioned in the explanation to Section 11A which states : In computing the period of two years referred to in Section 11A, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court is excluded. There is no mention in Section 11A that the period after the publication of the declaration under Section 6 and the publication of any corrigendum to the said declaration has also to be excluded. We will be adding words to the statute if we put such interpretation to Section 11A, and it is well settled the Court should not add or delete words in a statute."

6. Even the Division Bench of this Court in a case of **Madanlal Lalchand Jain Vs. State of Maharashtra** referred supra relying on the judgment of the Apex Court in a case of **Mohan Vs. State** referred supra has held that, the corrigendum does not save the limitation. The corrigendum is issued to correct the contents of notification U/Sec. 4, which relates back to the date of publication.

7. Even if the dates as relied by the respondents are considered, the declaration U/Sec. 6 would be beyond one year. As per the respondent, the notification U/Sec. 4 of the L. A. Act was published on 29.01.1998. The corrigendum was published on

29.10.1998, which as per the judgment of the Apex Court and this Court would relate back to the date of publication i. e. 29.01.1998. The declaration U/Sec. 6 is published on 08.07.1999. The same admittedly is beyond the period of one year as contemplated U/Sec. 6 of the L. A. Act. The proviso to Sec. 6 is explicitly clear. It would also be seen that, this Court has also not injuncted the respondents from passing any award. The award yet is not passed, though sixteen years have lapsed.

8. Considering all the aforesaid aspects of the matter, the writ petition is allowed in terms of prayer clause "B". Rule is made absolute in terms of prayer clause "B", however, with no order as to costs.

9. This order would not be an impediment for the authorities to take up fresh proceedings for acquisition as is permissible in law.

Sd/-

[A. I. S. CHEEMA, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/May 15