

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7422 OF 2012

Shri Pandurang Kondiba Bhuruk. .. Petitioner
Vs
District Rehabilitation Officer, Pune and Others. .. Respondents
—
Shri Jaydeep Deo for the Petitioner.
Shri P.G. Sawant, AGP for the Respondent Nos.1 to 4.
—

CORAM : A.S. OKA &
K.R.SHRIRAM, JJ
DATED : 28TH AUGUST 2015

P.C.

. Heard the learned counsel appearing for the Petitioners.
The substantive challenge in this Petition is to the award dated 30th
April 2001 under Section 11 of the Land Acquisition Act, 1894.

2. The acquisition is in respect of the land bearing Survey
No.148/3 (Gat No.825). The area of the acquired land is 1 Hectare and
60 Ares. The case made out in the Petition is that the Petitioner
purchased the said land under the registered Sale Deed dated 31st
December 1970. One Sadhu Sadu Malusare, is the predecessor of the
Respondent Nos.5 to 12. The contention is that notwithstanding the
execution of the Sale Deed, the name of the Petitioner was not mutated
in the revenue record and, therefore, all notices of acquisition

proceedings were served upon one of the legal representatives of the said Sadhu Sadu Malusare.

3. The challenge to the acquisition is on the ground that the Petitioner was never served with any notice of acquisition proceedings especially the personal notice under Sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (for short “the said Act”). In the Petition, the contention is that the Petitioner continues to be in possession.

4. The submission of the learned counsel appearing for the Petitioner is that the legal representatives of the original owner Shri Sadhu Malusare played a fraud and did not disclose to the authorities under the said Act that they have already sold the acquired land to the Petitioner. The contention of the Petitioner is that in the absence of service of personal notice under Sub-section (1) of Section 4 of the said Act, the Petitioner could not raise any objection and, therefore, he was deprived of an opportunity of being heard under Section 5A of the said Act.

5. We have given careful consideration to the submissions. There is a reply filed by Shri Sanjay Dattatraya Aswale, the Sub-Divisional Officer, Bhore, District – Pune, in which a preliminary objection is raised that for challenging the award dated 30th April 2001,

the present Petition has been filed in the year 2012. From the record, we find that the Petition was filed on 23rd July 2012. Perusal of the averments made in the Petition shows that it is not the case made out by the Petitioner he was not aware of the acquisition proceedings. We must note here that the Notification under Sub-section (1) of Section 4 of the said Act was published in the Official Gazette dated 10th June 1999. A corrigendum was published on the same date. The notice under Sub-section (1) of Section 4 of the said Act was published in daily newspapers “Rashtratej” and “Prabhat”. Even the notice of corrigendum was published in the same newspapers, apart from the usual procedure of displaying the notice in the offices of Talathi and Tahasildar. The declaration under Section 6 of the said Act was published in the Official Gazette on 29th June 2000. Similar publicity was given to the said declaration.

6. The learned counsel appearing for the Petitioner invited our attention to the Paragraph Nos.5 and 6 of the Petition. In fact, the possession receipt dated 29th December 2005 by which the possession of the acquired land has been taken over has been annexed to the Petition itself at Exhibit-J. The contention of the Petitioner is that he was in de-facto possession. Even in Paragraphs 5 and 6, there is no averment that the Petitioner was not aware of the acquisition proceedings. There is no specific averment as regards the date on which the Petitioner

became aware of the impugned award dated 30th April 2001.

7. The object of the acquisition was for resettlement of the project affected persons of “Gunjawani Project”. In Paragraph 7 of the affidavit-in-reply filed by Shri Sanjay Dattatraya Aswale, the Sub-Divisional Officer, Bhore, it is stated that the possession of the acquired land is already delivered to the project affected person. In the affidavit-in-reply, it is stated that the compensation amount of Rs.1,23,918/- is lying with the Government. It will be open for the Petitioner to make an application for withdrawal of the said amount.

8. Thus, considering the delay of 11 years which is not at all explained, the Petitioner cannot be allowed to invoke writ jurisdiction of this Court under Article 226 of the Constitution of India. Accordingly, the Writ Petition is rejected.

9. Civil Application No.1926 of 2015 does not survive and the same is disposed of.

(K.R. SHRIRAM, J)

(A.S. OKA, J)

Certified to be true and correct copy of the original signed Judgment/Order.