

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 107 OF 2014

(Prakash s/o Rambhau Fase & Ors. vs. The State of Maharashtra thr. its Secretary, Irrigation
Department & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
A.P. BHANGALE, JJ.
MARCH 05, 2015.**

Heard Shri Kshirsagar, learned counsel for the petitioners, Shri Rode, learned AGP for respondent Nos. 1 to 3 and Shri Jagtap, learned counsel for respondent No. 4.

The submission of Shri Kshirsagar, learned counsel is, publication of declaration under Section 6(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 1894 Act), was made on 30.12.2010 and final award under Section 11 thereof has been made on 02.09.2013 i.e. almost after 29 months. He submits that in view of Section 11-A of the 1894 Act, the land acquisition proceedings have already lapsed.

Shri Jagtap, learned counsel appearing for respondent No. 4 – Body submits that the lands are needed for rehabilitation of displaced persons in Hingna (Balapur), Tq. Jalgaon (Jamod), District – Buldhana. The work of project is going on but as the land for

resettlement/ rehabilitation is not being made available, it is delayed. He further submits that as the acquisition is to be done by Respondent No. 3, Respondent No. 4 is seriously prejudiced because of unreasonable and unnecessary delay.

The learned AGP is relying upon reply affidavit. He points out that Section 6(2) notice was published on 10.05.2013 and thereafter final award has been made on 02.09.2013 i.e. within four months of the said notice and, therefore, proceedings did not lapse.

With the assistance of learned counsel for the parties, we have perused the papers. The order sheets of Land Acquisition proceedings are produced on record by the petitioners. There the order sheet dated 13.12.2010 shows that a notice under Section 6 of the 1894 Act, was published and sanctioned. Thereafter there are order sheets dated 09.02.2011, 15.04.2011, 09.06.2011, 20.06.2011. After this, we have noticed order sheet dated 27.05.2013 i.e. almost after two years. The order sheets then are of dated 27.05.2013, 25.08.2013, 12.06.2013, 18.07.2013, 02.09.2013 and 25.09.2013. The order sheet dated 25.09.2013 is for issuing notice under Section 12 of the 1984 Act. The order sheet dated 18.07.2013 shows that the Collector, Buldhana had approved the draft award and there is direction to make final award immediately in that order sheet. The reply affidavit filed before this Court shows that final award has been made on 02.09.2013. This

date 02.09.2013 is also reflected in the order sheet when the award has been approved by the Sub-Divisional Officer and Land Acquisition Officer.

None of the order sheets show that the proceedings were stayed at any time by any Court. Insofar as Section 6 notification of 1894 Act dated 30.12.2010 is concerned, it was published in Newspaper daily Prashnakal on 23.12.2010 and daily Khabre Shyamtak on 23.12.2010. The date of publication at Chwadi / Gram Panchayat is stated to be 24.05.2013. Then there is a column in which date of publication under Section 6(2) of the 1894 Act has been shown as 10.05.2013.

The perusal of Section 11-A of the 1894 Act shows that the Collector has to make an award under Section 11 within a period of two years from the date of publication of declaration and if no award is made within that period, the entire proceedings for acquisition of land lapse. The publication referred to therein is of notification under Section 6(1) of the 1894 Act. Section 6(1) contemplates recording of a satisfaction that the land is required for public purposes, after considering the report made under Section 5-A. Sub-section (2) Section 6 provides for its publication in Official Gazette and in two daily newspapers circulating in the concerned locality. The Collector has also to give public notice of the substance of such declaration at convenient places in the said locality. It also stipulates that the last

of the dates of such publication and giving of such public notice is thereafter referred to as the date of the publication of the declaration. The public notice given in this matter by the Collector is dated 10.05.2013. The Gazette notification is dated 30.12.2010. Thus, between publication in Official Gazette and public notice at Chawdi/ Gram Panchayat, there is a gap of about 29 months. The order sheets produced before this Court do not in any way explain this period taken. The petitioner submits that if such delay is accepted, very purpose of Section 11-A of the 1894 Act which prescribe time limit of two years will be frustrated.

We find substance in the contention of the learned counsel for the petitioners. In this situation, as we find that the award under Section 11 of the 1894 Act has not been made within two years from the declaration published in Official Gazette under Section 6(2) of the 1894 Act, we declare that the proceedings have lapsed. Writ Petition is thus allowed and disposed of. However, in the facts and circumstances of the case, there shall be no order as to costs.

In view of the above, CAW No. 57 of 2014 for dispensing with filing of translated copy of award is also disposed of.

JUDGE

JUDGE