

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1654 /2015

(Santosh s/o Mahadeorao Madavi vs. State of Maharashtra and others)

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

Court's or Judge's order

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Mr. S.V. Sohoni, Advocate for the petitioner
Mr. Anand Fulzele, Addl. Govt. Pleader for Respondents 1 to 3
Mr. V.G. Palshikar, Adv. for respondent no.4

**CORAM : SMT. VASANTI A. NAIK &
A.I.S.CHEEMA, JJ.**

DATED : 8th September, 2015.

Heard.

By this petition, the petitioner challenges the award passed by the Special Land Acquisition Officer on 31.12.2013, under Section 11 of the Land Acquisition Act, 1894 (in short, “ the Act of 1894”).

The learned counsel for the petitioner has raised only one ground for challenging the award dated 31.12.2013. It is stated that the respondents have not served an individual notice on the petitioner, under Section 4 of the Act of 1894. It is stated that it was necessary for the respondents to serve a copy of the notification on all persons known or believed to be interested in the land. The learned counsel has relied on paragraph 37 of the judgment of the Hon'ble Supreme Court reported in 2012 (1) SCC page 792. It is stated that it is also necessary under the Maharashtra Land Acquisition Manual to serve a copy

of the notification under Section 4 of the Act of 1894 on every individual whose land is acquired for the public purpose.

On hearing the learned counsel for the parties and on a perusal of the provisions of the Act of 1894, it appears that there is no merit in the only submission made on behalf of the petitioner for challenging the award. In view of Section 4 of the Act of 1894, the Government is required to issue a notification expressing its intention to acquire the land, in the Official Gazette and in two daily newspapers widely circulated in the locality. A public notice of the substance of the notification should be given at convenient places in the said locality. There is nothing in the provisions of Section 4 of the Act of 1894 that requires the Collector to cause copies of the notification to be served on all the persons whose lands are sought to be acquired. The reliance placed by the petitioner on paragraph 37 of the judgment of the Hon'ble Supreme Court is ill-founded. In Paragraph 37 of the judgment of the Hon'ble Supreme Court, the Supreme Court was considering the acquisition in the State of Bihar and there is a special amendment to Section 4 of the Act of 1894 for the State of Bihar which requires the Collector to cause copies of the notification to be served on all persons known or believed to be interested in the land. Such an obligation is not cast upon the Collector either by the provisions of Section 4 of the Act of 1894 or by the amendment to Section 4 for the State of Maharashtra. In respect of the acquisition in the State of Maharashtra, the Section 4

notification is only required to be published in the Official Gazette or in the Government periodical entitled “*Lokrajya*” or in a newspaper having circulation in the local area. There is no requirement in the Maharashtra amendment to cause the service of the notification under Section 4 of the Act of 1894 on every individual land-holder whose land is sought to be acquired. The provisions of the Maharashtra Land Acquisition Manual also do not cast a duty on the Collector to serve a copy of the notification on every individual whose land is sought to be acquired.

Since there is no merit in the only submission made on behalf of the petitioner, the Writ Petition is dismissed, with no order as to costs.

JUDGE

JUDGE

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