

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

WRIT PETITION NO.2606/2015

Shri Pitamber Mahadeo Ghajbhiye

...Versus...

State of Maharashtra through Collector, Nagpur and others

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

Court's or Judge's orders

Shri R.S. Nagpure, Advocate for petitioner
Mrs. M.H. Deshmukh, AGP for respondent nos.1 and 2
Shri C.S. Samudra, Advocate for respondent no.3

**CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.**

DATE : 30.11.2015

By this petition, the petitioner seeks a declaration that the proceedings initiated by the respondents for the acquisition of the land of the petitioner in Land Acquisition Case No.3/A-65/2002-2003 of Mouza Pipri have lapsed as the award is not passed within a period of two years from the date of issuance of the Section 6 (2) Notification.

According to the petitioner, though the Section 6 Notification was issued by the respondents on 17.4.2008, the Special Land Acquisition Officer did not pass the award within a period of 2 years from the said date. It is stated that the award was passed on 14.7.2010 and hence, the same has lapsed, in view of the provisions of Section 11A of the Land Acquisition Act.

It is stated on behalf of the respondents, on the basis of the affidavit-in-reply filed on behalf of the respondents no.2 and 3, that the case of the petitioner that the award was not passed within a period of two years from the date of the last publication of the Section 6 (2) Notification, is not correct. It is admitted that the Section 6 Notification was published in the Official Gazette on 17.4.2008, however, the same was published on the notice board of the Tahsil office on 14.7.2008 and on the Gram Panchayat notice board on 15.7.2008. It is stated that after the publication of the notification, as aforesaid, a corrigendum to the Section 6 Notification was issued on 17.7.2008. It is stated that the award was passed on 14.7.2010 and the fact about the publication of the Section 6 Notification on the notice board of Tahsil Karyalaya and Gram Panchayat office is mentioned in the award. It is stated that the petitioner has mischievously filed the instant petition, though the award itself shows that the notice was published in the Tahsil Karyalaya and the Gram Panchayat office on 14.7.2008 and 15.7.2008 respectively.

On hearing the learned Counsel for the parties and on a perusal of the award and the written submissions of the respondent nos.2 and 3, it appears that the petitioner has failed to prove that the land acquisition proceedings have lapsed as the award is not passed within a period of two years from the date of issuance of the Section 6 Notification. It is a settled position that the time of two years for passing the award from the date of issuance of Section 6 Notification would start running from the date of the issuance/publication of the last Section 6 Notification. Though the Section 6 Notification in the instant case was

published in the Official Gazette on 17.4.2008, it was affixed on the notice board of the Tahsil Karyalaya and the Gram Panchayat on 14.7.2008 and 15.7.2008 respectively. The said fact is clearly depicted from the award passed by the Special Land Acquisition Officer. Also, a corrigendum to the Section 6 Notification was issued on 17.7.2008. Normally, the time of two years would start running from 17.7.2008, when the corrigendum was issued. In any case, the period would start running from 15.7.2008 i.e. the date on which the Section 6 Notification was lastly published in the Gram Panchayat office. We find on a reading of the affidavit-in-reply and from a copy of award that the award is passed within a period of two years from the date of publication of the Section 6 Notification in the Tahsil Karyalaya and Gram Panchayat office. The submission made on behalf of the petitioner that since the Section 9 notice was received by the petitioner on 7.7.2008, the case of the respondents that the Section 6 Notification was lastly published in the Tahsil Karyalaya and Gram Panchayat office on 14.7.2008 and 15.7.2008 respectively is not correct, is liable to be rejected. After the issuance of the Section 6 Notification, the Section 9 notices may have been issued to the landholders. However, the respondents thereafter gave wide publicity to the Section 6 Notification by publishing it on the notice board of the Tahsil Karyalaya and Gram Panchayat office on 14.7.2008 and 15.7.2008 respectively. Since the period of two years has to be computed from the date of publication of the Section 6 Notification on the last occasion, we do not find that the award has been passed beyond the period of two years.

Since the petitioner has failed to make out a case in respect of the lapsing of the acquisition proceedings, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

Wadkar