

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

WRIT PETITION NO. 5053/2014

(Dadarao Uttamrao Deshmukh (Karade) 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.S. Sharma, Adv. for petitioner
Mr. T.R.. Kankale, AGP for respondent nos.1 to 4
Mr. N R Saboo, Adv. for Respondent no.5

CORAM : SMT.VASANTI A. NAIK &
A.M.BADAR, JJ.

DATED : 25th March, 2015.

Heard.

By this petition, the petitioner challenges the acquisition proceedings initiated by the State of Maharashtra on 16.5.2013.

Inter alia, it is submitted on behalf of the petitioner that the acquisition proceedings are liable to be set aside inasmuch as the mandatory provisions of Section 5 (A) of the Land Acquisition Act, 1894 have not been complied with, before the objection of the petitioner was decided. It is submitted that the petitioner was not granted personal hearing in the matter on the objection filed by him on 24.6.2013.

Shri T.R. Kankale, the learned Asst. Government pleader appearing on behalf of the respondents 1 to 4 submitted, on the basis of the

record and proceedings, that the Section 4 notification was issued on 16.5.2013 and it was necessary for the petitioner to have filed the objection within a period of thirty days from the date of the notification. It is stated that the objection was filed by the petitioner before the Special Land Acquisition Officer on 24.6.2013 and hence the respondents were not obliged to hear the petitioner before deciding his objection. It is stated that though the petitioner was not heard, the objections are decided, although filed belatedly.

Shri Sharma, the learned counsel for the petitioner states that though the Section 4 notification was issued on 16.5.2013, the land of the petitioner was not included in the said notification. It is stated, that by the corrigendum issued by the State Government on 6.6.2013, the land of the petitioner in Survey No.251 was included for the first time in the acquisition proceedings. It is stated that the petitioner received the notice from the respondent-Special Land Acquisition Officer asking the petitioner to file the objection on or before 24.6.2013. It is stated that the petitioner filed the objection on 24.6.2013 and it was necessary for the Special Land Acquisition Officer to have heard the petitioner before deciding his objection.

In the facts of the case, though the first notification was issued on 16.5.2013, the Special Land Acquisition Officer was required to afford an opportunity

of personal hearing to the petitioner, in view of the mandate of the provisions of Section 5(A) of the Act of 1894. The land of the petitioner was not included in the section 4 notification initially issued on 16.5.2013. The land of the petitioner was included in the section 4 notification by the corrigendum issued on 6.6.2013. The petitioner was, therefore, entitled to file the objection within a period of thirty days from 6.6.2013. The petitioner was asked by the notice of the Special Land Acquisition Officer to file the objection on or before 24.6.2013. On a perusal of the original record, we find that the petitioner had filed the objection on 24.6.2013 as per the notice issued by the Special Land Acquisition Officer to the petitioner. It was necessary for the Special Land Acquisition Officer, in the circumstances of the case, to give personal hearing to the petitioner as the objection was filed by the petitioner within a period of thirty days from the date of inclusion of the petitioner's land in the Section 4 notification. The filing of the objection by the petitioner on 24.6.2013 was in conformity with the notice issued by the Special Land Acquisition Officer for filing the objection on or before 24.6.2013. We find that the Special Land Acquisition Officer has committed a serious error in not granting personal hearing to the petitioner before deciding his objection.

In view of the aforesaid, the Writ Petition is allowed. The notification issued by the State Government

under Section 6 of the Land Acquisition Act in respect of the land of the petitioner is quashed and set aside. The decision on the objection raised by the petitioner is quashed and set aside. The respondent nos.1,3 and 4 may take further steps in the land acquisition proceedings only after granting personal hearing to the petitioner on his objection. The petitioner undertakes to appear before the Special Land Acquisition Officer for personal hearing on 15th April,2015.

Order accordingly. No order as to costs.

JUDGE

JUDGE

satave