

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CA/8327/2016 IN WP/2334/2007 WITH WP/744/2007 WITH CA/8389/2016 IN
WP/744/2007 WITH WP/1077/2007 WITH CA/8390/2016 IN WP/1077/2007

M/S RANA SAHEBRAO MANNURAM
VERSUS
THE STATE OF MAH AND ORS

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Advocate for Petitioner : Mr. R.N. Dhorde, Senior Advocate h/f. Mr. R L Kute
AGP for Respondents: Mr. S.B. Pulkundwar
Advocate for respondent No.3 : Mr. A.S. Bajaj.

**CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 17th JUNE , 2016.**

PER COURT:

1] These are applications seeking amendment to the memo of the writ petitions. Mr. Dhorde, learned Senior Counsel submits that the petitioner had approached the Apex Court against the judgment and order passed by this court, dismissing the W.P. No. 1077 of 2007. The matter was remanded back by the Apex Court giving opportunity to the petitioner to raise the plea about non-compliance of Section 6(2) of the Land Acquisition Act 1894. Subsequently, the petitioner filed a civil application for amendment. The said application for amendment came to be allowed by this Court on 19.7.2013. By the said amendment, the petitioners raised the ground about non-compliance of Section 6(2) of the Land Acquisition Act . Learned Senior Advocate further submits that in other two matters also, same amendment is sought regarding non compliance of Section 6(2) of the Land Acquisition Act. Learned Senior Counsel further submits that the petitioners are making further amendment to the effect that the acquisition proceedings stand lapsed in view of Section 24(2) of the Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement Act, 2013, which has come into effect w.e.f. 1.1.2014.

2] Mr. Bajaj, learned counsel opposes the applications and submit that as far as amendment with regard to benefit of Section 24(2) of the Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement Act, 2013 is concerned, the same is a subsequent cause of action. The matter is for final hearing. At this stage, new grounds cannot be allowed to be raised. According to learned counsel, the amendment made in W.P. No. 1077 of 2007 with regard to non compliance of section 6(2) of the Land Acquisition Act was pursuant to the orders of the Apex Court. In W.P. Nos. 744 of 2007 and W.P. No. 2334 of 2007, there is no such order of the Apex Court. As such, the said amendment may not be allowed.

3] We have considered the submissions canvassed by the learned counsel for the respective parties. In all these 3 writ petitions, same award is the subject matter of challenge. The amendment with regard to non-compliance of Section 6(2) of the Land Acquisition Act 1894 has been allowed in W.P. No. 1077 of 2007. All these petitions will have to be decided together. The challenge is to the award passed by the respondents. The Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement Act, 2013 has come into effect from 1.1.2014 and the challenge to the same award is being sought on the additional ground, i.e. on the ground of Section 24(2) of the Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement Act, 2013. The said challenge would be on a legal premise only. The same can be said to be an additional ground. However, whether the petitioners would be in a position to establish their case is a different matter altogether. It is trite that merits of the amendment application cannot be considered at the time of deciding the amendment application. Whether there is non-compliance of Section 6(2) of the Land Acquisition Act or whether the petitioner is entitled for the benefit of section 24(2) of the Act of 2013, is a debatable issue, which the respondents will be entitled to controvert at the time of deciding the writ petitions. The respondents will also have an

opportunity to controvert the averments sought to be raised by way of amendment, by filing affidavits.

4] Considering the above, and to avoid multiplicity of litigation, the civil applications for amendment are allowed. Necessary amendment be carried out within 14 days. The respondents are at liberty to file affidavits to the amended part of the writ petition. Civil applications are accordingly disposed of.

5] S.O. for two weeks.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-