

WRIT PETITION NO. 12120 OF 2015

versus

Mr. J.M. Murkute, Advocate for petitioners
Mr. B.V. Virdhe, AGP for respondents No. 1 to 7

DATED : 7th JULY, 2016.

1. Mr. Murkute, learned counsel for petitioners submits that father of the petitioners died on 27-06-2006. He was owner of land Survey No. 14 ad-measuring 22 Acres, 9 Gunthas situated at village Jalalpur, Ta. Parli-Vaijnath, out of which 1 Acres, 21 Gunthas land was acquired for construction of Guest House at Parli-Vaijnath. Learned counsel submits that in the year 1988, father of the petitioners filed writ petition No. 1694 of 1988 before this Court. This Court on 19-04-1993 passed the order that if Collector or Officer nominated by him find that possession of the land of the petitioners was taken, for which no compensation was paid then respondent No. 1 or its agency shall initiate acquisition proceedings under the provisions of Land Acquisition Act, 1894 (for short "Act of 1894"). Learned counsel submits that after order passed by this Court, father of the petitioners had filed an

application with respondents No. 5 and 6. A report was forwarded by Executive Engineer, Public Works Department, Ambajogai vide letter dated 28-01-1994 even letter was issued on 15-02-1997 to the Manager, Yervada Government Publication/Printing Press, Pune for publishing notification under section 4 of the Act of 1894 in Official Gazette. However, subsequently, it appears that same has not been published. Thus, further application was given but to no avail. According to learned counsel, respondents - authorities have not complied the order passed in writ petition No. 1694 of 1988, even compensation amount is not paid nor award has been passed.

2. Learned Assistant Government Pleader submits that respondent No. 2 Divisional Commissioner, Aurangabad by letter dated 15-02-1997 had forwarded the declaration under section 6 of the Act of 1894 to the Government Printing Press for publication in the official gazette and same is part of record. According to learned counsel it is for the Government Printing Press to maintain record.

3. The respondents in their affidavit nowhere denied that letter was issued by the Divisional Commissioner to the Government Press for publication of declaration under section 6 of the Act of 1894 in respect of the land of petitioners' father.

4. This Court vide order dated 19-04-1993 in writ petition No. 1694 of 1988 directed the respondents to take up acquisition proceedings, if it is found that the possession of the land of petitioners was taken for which no compensation is paid. Respondents' affidavit stated that

pursuant thereto the Divisional Commissioner had forwarded letter/file for publication of declaration under section 6 of the Act of 1894 to the Government Printing Press, however, no subsequent proceedings has been initiated nor award has been passed. It is stated that Government Guest House has already been constructed and completed.

5. Considering the above, we pass the following order:-

Respondent-authority concerned shall conduct joint measurement of the land over which the Government Guest House, Parli-Vaijnath District Beed is constructed. Upon conducting joint measurement, if it is found that writ land is affected further steps shall be taken for acquisition and awarding compensation under the provisions of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. Said process shall be started as expeditiously as possible preferably within a period of four months from the date of this order.

8 With aforesaid directions, writ petition stands disposed of. No costs.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

MTK