

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4674 OF 2015

Smt. Aparna Jayprakash Mistry .. Petitioner
V/s
Pune Municipal Corporation & Ors. .. Respondents

Mr. T.D. Deshmukh for the petitioner.
Mr. P.P. Kakade, AGP for the State.

**CORAM: DR. MANJULA CHELLUR, CJ. &
G.S. KULKARNI, J.**

DATE : 2nd MARCH 2017

P.C.:

Heard learned counsel for the petitioner and learned Government Advocate.

2. Certain lands came to be notified for acquisition for the benefit of Pune Municipal Corporation for establishment of memorial of Krantiveer Lahuji Vastad Salve. Apparently the land of the petitioner in Survey No.54 situate at Yerwada measuring about 29 ares along with other lands came to be notified in terms of section 4(1) of the Land Acquisition Act, 1894 (for short “1894 Act”) on 16th July 2011, gazetted on 21st July 2011 and last displayed in the City Survey Office No.2, Pune on 21st September 2011. Subsequently an inquiry contemplated under section 5A of the 1894 Act came to be

made and on 19th September 2012 declaration under section 6 of the 1894 Act came to be published in the gazette. It was published in the daily newspaper 'Sakal' on 20th September 2012. An award came to be made in terms of section 11A of the 1894 Act on 28th November 2014 determining the quantum of compensation at Rs.16,28,91,301/- to the petitioner and also other owners of the land. Apparently an application under section 48 of the 1894 Act came to be made for deletion of the land in question on the ground of a nursery being run in the land. However, on 1st January 2014, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into existence. The petitioner contends that in the absence of award being made under section 11A of the 1894 Act, the acquisition proceedings lapse and, therefore, she is before this Court.

3. According to learned Government Advocate, page 77 of the petition indicates that there was some writ petition pending at Aurangabad Bench, therefore there was delay in making the final award. However, neither page 76 nor page 77 of the petition indicates grant of any stay which came in the way of making an award under section 11A of the 1894 Act. In the light of lapse of proceedings for want of an award as contemplated under section 11A of the 1894 Act, whether there was any stay of the declaration under section 6(1) of the 1894 Act has to be seen.

4. In that view of the matter, in the absence of any such declaration being stayed, we are of the opinion that there cannot be any deduction of any period from the period between section 6(1) notification and the date of the award, i.e. 28th November 2014. Taking into consideration the date on which declaration under section 6(1) of the 1984 Act, either in the gazette or in the newspaper, made, the date of award under section 11A of the 1894 Act is beyond the statutory period of two years. Therefore, the acquisition proceedings lapse. Accordingly the writ petition is allowed opining that the acquisition proceedings, so far as the present petitioner and her land is concerned, lapse.

(G.S. KULKARNI, J.)

CHIEF JUSTICE