

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10829 OF 2014

Mr.Arun Chhotelal Ghiya. ... Petitioner.
V/s.
The Special Land Acquisition Officer No.22
and others. ... Respondents.

Mrs.Gauri Jadhav with Tushar Jadhav for the petitioner.
A.B.Vagyani, Govt.Pleader with P.G.Sawant, AGP
for respondent Nos.1 to 3.
G.S.Hegde with C.M.Lokesh and Ms.Juhi Pandey i/b.
M/s.A.R.Bhole & Co. for respondent No.2.

**CORAM : DR.MANJULA CHELLUR, C.J.
AND N.M. JAMDAR, J.**

DATE : 18th July 2017.

P.C. :

Apparently, for the benefit of respondent No.2- Corporation, the land bearing Gat No.276/6 situated at village- Nigoje, taluka- Khed, district- Pune came to be acquired. Apparently, notifications issued under section 32 of the MID Act indicated the measurement of the land as 6.50 Hectares belonging to the petitioner. It is not in dispute that on 13th December 2006 there were two awards in respect of Gat No.276/6 of village- Nigoje,

taluka- Khed, district- Pune. One award was with regard to the land to the extent of 6.50 Hectares and another award was in respect of land admeasuring 3.22 Hectares. According to the petitioner, the award passed in respect of land admeasuring 3.22 Hectares is not sustainable for the reason that there was no declaration of intention to acquire this land which could be fructified into an award in terms of sub-sections (1) and (2) of section 32 of the Maharashtra Industrial Development Act, 1961 ("MID Act" for short). In order to rectify the mistake there seems to be corrigendum issued on 13th March 2008 whereby declaration of intention to acquire the land came to published. In other words, this is a case where award is passed first and thereafter the declaration expressing the intention to acquire the land came to be published subsequent to the award.

2. Reading of the procedure to acquire the land under the MID Act clearly indicates that like Land Acquisition Act there has to be declaration intending to acquire the land calling for objections and after hearing the objections either the intention could be dropped or they can proceed further which would ultimately fructify into an award. Therefore, the entire procedure which has to be followed in order to pass award in terms of the above Act so far as land admeasuring 3.22 Hectares was not adopted. Therefore, the corrigendum dated 13th March 2008 cannot rectify the procedural deficit so far as award dated 13th December 2006 is concerned.

3. Accordingly, writ petition is allowed. The award dated 13th December 2006 in respect of land bearing Gat No.276/6 admeasuring 3.22 Hectares of village- Nigoje, taluka- Khed, district- Pune and the corrigendum dated 13th March 2008 to the notification issued under the MID Act are set aside.

4. It is needless to state that if this land is required by the respondent- Corporation, it is open to them to acquire the same in accordance with the procedure.

(N.M. JAMDAR, J.)

CHIEF JUSTICE