

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12037 OF 2017

Laxman Bhairu Gore

.....Petitioner

V/s

State of Maharashtra & Ors.

.....Respondents

* * * * *

Mr. Chetan G. Patil, Advocate for the petitioner.

Ms. M.S. Srivastava, AGP for respondents no.1 to 4.

Coram : A.A. Sayed, &

Sandeep K. Shinde, JJ.

Monday, 15th October, 2018.

P.C. :

1. This petition is filed under Article 226 of the Constitution of India seeking the following reliefs :

“A). That this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus thereby directing the respondents to declare the land acquisition

proceedings in respect of land bearing Gat No. 836 admeasuring 0.77 H situate at Village-Kini, Taluka-Ajara, District-Kolhapur to have been lapsed and further be pleased to cancel all steps taken in furtherance and in consequence thereof.”

2. An Affidavit-in-reply has been filed by the Deputy Collector, (Land Acquisition No.12), Kolhapur on behalf of respondents no.1 to 4 wherein in para-3, it is stated that the Notification under Section 4 was issued by the respondent on 24th September, 2009. The Notification was published on the Notice Board in Village-Chavadi on 21st November, 2009. The Section 6 declaration was published in the Maharashtra Government Gazette on 25th November, 2010. Thus, it is evident that the Section 6 declaration was published beyond the period of one year from the date the Notification that was published on the notice board in Village-Chavadi on 21st November, 2009. It is not

disputed by the Learned AGP that the issue raised in the petition would be squarely covered by the judgment of the First Court in the case of **Yashwant Parsram Shendarkar and Ors. V/s. The Collector, Kolhapur & Ors. dated 12th April, 2017 (Writ Petition No. 3002 of 2015)** which was in respect of lands covered under the same Section 4 Notification as in the present case.

3. In the circumstances, for the reasons stated in the said order dated 12th April, 2017, we hold that the Section 6 declaration cannot be said to be a valid declaration under Section 6 of the Land Acquisition Act, 1894. The Award which was passed in the year 2012 would also be non-est in the eyes of law and all consequences after passing of the Award have become irrelevant. If the respondents desire to acquire the subject land, they would have to initiate fresh proceedings in accordance with law, else they would have to surrender back the possession of the subject

land to the petitioner within a period of 3 months from today.

4. The Writ Petition is disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J)

(A.A. SAYED, J)