

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2327 OF 2018

Sunita Rama Kolnoore and others .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Ajeet B. Kale, Advocate for Petitioners.

Shri V. M. Kagane, A.G.P. for Respondent Nos. 1 to 3.

Shri B. R. Survase, Advocate for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
 ANIL S. KILOR, JJ.**

DATE : 11TH OCTOBER, 2019.

FINAL ORDER :

. Mr. Kale, the learned advocate for petitioners submits that, the award dated 14.01.2016 by virtue of which the lands of the petitioners were acquired is not passed within a period of two years from the date of declaration U/Sec. 6 of the Land Acquisition Act, 1894 (for short “Act of 1894”), as such award deserves to be set aside. The learned advocate submits that, the declaration U/Sec. 6 of the Act of 1894 was issued on 28.09.2013. The award is passed on 14.01.2016. It is beyond the period of two years, as such the same deserves to be set aside. It is bad in law in view of Sec. 11-A of the Act of 1894. The learned counsel further submits that, the declaration U/Sec. 6 of the Act of 1894 was never published in the village Chawadi. On that ground

also award deserves to be set aside.

2. Mr. Kagane, the learned Assistant Government Pleader for respondents/State submits that, the award is passed within the period of two years from the date of declaration U/Sec. 6 of the Act of 1894. Deducting the duration from 26.05.2014 to 23.09.2014 i. e. the period stay was operating, the award is within limitation. In view of the stay grated by this Hon'ble Court, the State Government issued directions not to declare the award until further orders vide its letter dated 07.07.2014. After passing of orders by this Court, the State Government directed to declare the award by letter dated 18.10.2014. Therefore, the award could not be declared during 26.05.2015 to 18.10.2014.

3. The award has to be passed within a period of two years from the date of declaration U/Sec. 6 of the Act of 1894. The period during which stay was in operation would have to be excluded. Reference can be had to the Explanation to Section 11-A of the Act of 1894.

4. The Writ Petition No. 4274 of 2014 and other writ petitions were filed in this Court. This Court under order dated 26.05.2014 passed a blanket order restraining the State and the authorities from passing any award. The said order was modified on 23.09.2014.

5. This Court under order dated 26.05.2014 in Writ Petition

No. 4274 of 2014 stayed the operation, execution and implementation of the notification dated 19.03.2014 issued by the State. Said notification was with regard to the multiplier to be applied. In view of stay granted by this Court to the execution of notification, no award could be passed.

6. The order of stay dated 26th May, 2014 was modified under order dated 23.09.2014 and this Court permitted the State and its authorities to pass the award and the same would be subject to the decision in the said writ petition.

7. The declaration U/Sec. 6 of the Act of 1894 was published on 28.09.2013. The award is passed on 14.01.2016. The period during which the stay was in operation i. e. from 26.05.2014 to 23.09.2014 will have to be excluded. Excluding the period from 26.05.2014 to 23.09.2014, the award passed on 14.01.2016 would be within the prescribed period of two years from the date of declaration U/Sec. 6 dated 28.09.2013.

8. In view of that, as the award is passed within the period of two years after issuance of declaration U/Sec. 6 of the Act of 1894 excluding the period for which the stay was in operation, the award is not invalid U/Sec. 11-A of the Act of 1894.

9. The other ground urged by the learned advocate for the petitioners that, declaration U/Sec. 6 was never published in the village Chawadi is not pleaded in the memo of writ petition and

only submission is made at the time of argument. Publication of declaration U/Sec. 6 of the Act of 1894 on the village Chawadi is a question of fact. Unless the same is pleaded it cannot be considered.

10. In the light of the above, the writ petition is dismissed. No costs.

[ANIL S. KILOR, J.]

[S. V. GANGAPURWALA, J.]

bsb/Oct. 19