

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
**REVIEW APPLICATION NO. 182 OF 2018 IN
WRIT PETITION NO. 540 OF 2017**

Ramchandra S/o Chunnilal Asawa

Applicant

Versus

The State of Maharashtra & others

Respondents

Mr. R.N. Dhorde, Senior Counsel instructed by Mr. V.R. Dhorde, advocate for the applicant.

Mr. S.B. Pulkundwar, AGP for Respondents No. 1 to 3.

Mr. V.D. Sapkal, advocate holding for Mr. Ram S. Shinde, advocate for Respondent No. 4.

Mr. Shaikh Mobin H, advocate for Respondent No. 5.

**CORAM : S.V.GANGAPURWALA &
AVINASH G. GHAROTE,J J.**

DATE : 15th November, 2019

PER COURT:

1 Heard learned counsel for the respective parties.

2 Perused the judgment under review. In the writ petition, the petitioners had challenged the award passed under Section 11 of the Land Acquisition Act, 1894. The contention of the original writ petitioners is that the award is not passed within the period of two years from the declaration under Section 6 of the Land Acquisition Act, 1894 and as such, the acquisition stands lapsed in view of Section 11A of the Land Acquisition Act, 1894.

3 The petitioners approached the Apex Court. The Apex Court remitted the matter to this Court giving liberty to the original

writ petitioners to file review.

4 Mr. Dhorde, learned Senior Counsel, strenuously contends that this Court had dismissed the writ petition on the premise that this Court had stayed the passing of the awards throughout the State of Maharashtra was stayed under its order dated 26.05.2014 in Writ Petition No.4274 of 2014 and deducting the days the order of stay was in force, the award is within limitation. The learned Senior Counsel submits that the order of stay passed by this Court was no impediment for the State to pass the award. The said stay to the award was on the ground that the multiplier provided in the Schedule was improper and the same applied only to the lands situated in the rural areas. The land of the petitioner is in urban area i.e. within the limits of Bhokar Municipal Council. The learned Senior Counsel submits that in view of that, stay granted by this Court would not apply to the present case. The award, having been passed beyond the period of two years from the declaration under Section 6, is vitiated in view of Section 11A of the Land Acquisition Act, 1894.

5 Mr. Sapkal, learned counsel for Respondent No. 4 Municipal Council submits that the provisions of Section 11A of the Land Acquisition Act, 1894 are inapplicable to the present case. The award has been passed after coming into force the Right to Fair Compensation & Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the provisions of Land Acquisition Act,

1894 stood repealed. The award has to be necessarily passed under the Act of 2013 and Section 25 read with proviso would apply in the present case. This aspect also needs to be considered. The learned advocate refers to the judgment of Full Bench of this Court in the case of **Pune Municipal Corporation Vs. Rajeev L. Sangtani and others**, (2019) 5 Mh.L.J. 899.

6 We had, in the judgment under review observed that the land is acquired for public purposes. Applying the explanation to Section 11A of the Act of 1894, we had observed that the period during which the action is taken, and the said declaration is stayed by the order of the Court, shall be excluded. We had observed that the orders of stay were in force in Writ Petition No 4274 of 2014 restraining the State from declaring the award since 26.05.2014 till 23.09.2014. The notification issued pursuant to the schedule under the Act of 2013 was stayed. The same was considered assuming the land to be in rural area covered by the notification. It is now undisputed by all the parties that the land of the petitioners, acquired pursuant to the impugned award, is situated in urban area and would not be covered by the notification that was subject matter of Writ Petition no. 4274 of 2014.

7 In the light of the above, the matter will be required to be re-considered considering the land to be in urban area and applicability of the provisions, as is contended by the learned Senior Counsel for the

applicant as well as learned counsel for Respondent No.4-Municipal Council.

8 In view of the above, the order dated 24.04.2018 in Writ Petition No. 540 of 2017, under review, is revoked and recalled. Writ Petition 540 of 2017 is restored to its original position.

9 Interim relief to continue for a period of four weeks from today.

10 Parties may take appropriate steps.

AVINASH G. GHAROTE
JUDGE

S.V.GANGAPURWALA
JUDGE

adb/