

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.92 OF 2018

Vinayak Kundalik Mane

..Petitioner

Versus

Daund Nagarparishad,

Daund, Taluka Daund, District Pune and others

..Respondents

Mr. R. D. Motkari, Advocate for the Petitioner.

Ms. Nisha Mehra, AGP for Respondent Nos.2 to 4 & 7.

CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.

DATE : 11th JULY, 2019

P.C.

1] Having perused the averments in the Public Interest Litigation, we dispose of the same without notice to the Respondents requiring the 2nd Respondent to properly apply his mind to the issue raised and not be guided by the misdirected representation made to him.

2] The Irrigation Department had to lay down a water canal in Khadakwasla Irrigation Division. The land was acquired by the State Government and placed at the disposal of the Irrigation Department. The canal was laid and as is to be found along all canals, on the embankment a road was laid.

3] A part of the canal passes through the territory of Daund Nagar Parishad. The Nagar Parishad issued a public notice on 27.06.2015 declaring its intent to declare the road on the embankment passing through its territory as a road. The Irrigation Department filed objections on 29.07.2015. The Nagar Parishad started treating the road as a public road. Under the guise of repairing the road obstructions were caused in the canal. A representation was made to the Collector, Pune and in the representation facts concerning the road on the embankment being sought to be declared a public road were pleaded and this misled the Collector to pass the impugned order dated 17th July 2017 rejecting the representation on the ground that no objections were filed to the public notice issued by the Nagar Parishad declaring its intent to notify the road as a public road within 30 days thereof.

4] The impugned order notes the fact that the public notice was issued by Nagar Parishad on 27.06.2015 and 29.07.2015, objections were filed by the Irrigation Department.

5] The issue required to be decided by the Collector was whether the road on the embankment could at all declare a public road because the road was on the embankment at the canal and the land comprising the embankment belongs to the Irrigation Department i.e. State Government.

6] We issue a mandamus to the Collector, Pune to re-decide

the objections filed by the Irrigation Department and while deciding the objections, the Collector would keep in mind that the road is on a land whereon embankment to a canal exists and the land belongs to the State Government but vested in it's State Irrigation Department.

N. M. JAMDAR, J

CHIEF JUSTICE