

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

**CIVIL APPLICATION NO.9487 OF 2021
IN WP/6889/2015**

**SACHIN OMPRAKASH BAJAJ
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Applicant : Shri Bhandari Anand P.
AGP for Respondents 1, 2 and 4 : Shri S.R. Yawalkar
Advocate for Respondent 3 : Shri S.S. Deve
...

**CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.**

DATE :- 24th September, 2021

Per Court :-

1. This Civil Application has been filed by the original petitioner seeking slight modification in our judgment dated 24.08.2021 delivered in his Writ Petition No.6889/2015.

2. Shri Bhandari, the learned advocate for the applicant, submits that out of inadvertence, the date of the notification under Section 32(1) of the Maharashtra Industrial Development Act, 1961 was mentioned as 04.11.2010. Actually, the said date is 08.03.2012. Consequentially, the observation in paragraph 9 beginning from “*Nevertheless, agricultural*

land.” appearing on page 6 of the judgment, will have to be modified and the rider imposed by this Court that the land at issue shall be deemed to be an agricultural land, will have to be lifted.

3. The learned AGP appearing on behalf of respondent Nos.1, 2 and 4 and the learned counsel representing respondent No.3, while opposing the prayer, submit that the notification under Section 1(3) of Chapter VI of the MID Act, 1961 was published on 04.11.2010. As such, the NA-44 order received by the petitioner in December, 2010 will be after the said notification. The intention of the Government to acquire the land for a public purpose was disclosed vide the said notification and hence, this was followed by the petitioner acquiring the NA-44 order for self serving purposes. They, therefore, submit that the observations in paragraph 9, especially the portion appearing on page 6 of the judgment of this Court, need not be modified.

4. We find that once the notification is issued under Section 1(3) making Chapter VI applicable to a particular area, the landholders in those area gather knowledge that the land is likely to be acquired for a public project. The proviso below Section 1(3) also indicates that if in the opinion of the State

Government, any area or any part thereof where Chapter VI has been brought into force, is not required or is not likely to be required for the purpose of development as industrial area, the State Government may, by a like notification, direct that Chapter VI shall cease to be in force in that area or any part thereof on such date as may be specified in the notification, except as respects things done or omitted to be done before such notification.

5. In view of the above, we find that the issuance of notification on 04.11.2010 under Section 1(3) making Chapter VI applicable to the land at issue, would give an indication that the State Government has the intention to develop the said land for a public project. Admittedly, the NA-44 permission has been acquired by the applicant/ petitioner in December, 2010, which is after the notification dated 04.11.2010 under Section 1(3). In this backdrop, though we would partly allow the Civil Application to carryout correction in paragraph 5(b) and insert clause 5(aa). Our observations in paragraph 9 will require the addition of the notification issued under Section 1(3) of the MID Act, 1961.

6. In view of the above, this Civil Application for modification is partly allowed. Paragraph 5(a) will be followed

by paragraph 5(aa) as under :-

“(aa) The Government issued the notification on 04.11.2010 under Section 1(3) of the MID Act, 1961 thereby, making Chapter VI applicable to the land at issue.”

7. The incorrect date mentioned in paragraph 5(b) will, therefore, undergo change and read as “08.03.2012.” Paragraph 5(b) will thus, read as under :-

“5(b) On 08th March, 2012, the notification under Section 32(1) of the Maharashtra Industrial Development Act, 1961 (for short “MID Ac”) was published.”

8. Consequentially, the portion beginning from the word “*Nevertheless*” and ending with the words “*agricultural land*”, in paragraph 9 would read as under :-

“Nevertheless, it would be necessary to record while negating the submissions of Shri Bhandari (that the land at issue be treated as being NA-44 for the purposes of computation of compensation), that Section 1(3) notification dated 04.11.2010 made Chapter VI applicable to the land at issue which includes the land of the petitioner and that Section 32(4) and Section 32(5) of the MID Act mandate that once the land vests in the State Government pursuant to the publication of the notification

under Section 32(1), the owner of the land is precluded from dealing with the said land in any manner and hence, the land at issue shall be deemed to be an agricultural land.”

kps

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)