

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4083 OF 2018

ASHOK DEVIDAS MOWAD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. P. Bhandarkar, Advocate for petitioners.

Shri S. M. Ukey, Additional Government Pleader for respondent Nos.1, 2, 5 and 6.

Shri J. B. Kasat, Advocate for respondent Nos.3 and 4.

CORAM : A.S. CHANDURKAR AND G. A. SANAP, JJ.

DATE : 22/12/2021

1. In this writ petition, challenge has been raised to the declaration made under Section 6 of the Land Acquisition Act, 1894 (for short, 'Act of 1894') as well as subsequent award dated 28/01/2016 principally on the ground that the Notification under Section 6 of the Act of 1894 was published on 11/08/2013 which was after coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The Division Bench by its order dated 21/08/2019 had referred the following questions by making a reference to the Full Bench.

1. What amounts to "initiation of land acquisition proceedings for the purposes of Section 24(1) of the 2013 Act" ?

2. Whether publication of preliminary notification under Section 4 of the old Act amounts to "initiation of land acquisition proceedings" ?

OR

3. Whether publication of declaration under Section 6 of the old Act amounts to "initiation of proceedings" ?

3. The Full Bench by its judgment dated 17/12/2021 has answered the reference by stating in Paragraph No.55 as under :-

"55. In the result, we answer the reference as under :

(i) Publication of preliminary notification under Section 4 of the Old Act amounts to initiation of the land acquisition proceedings for the purposes of Section 24(1) of the New Act."

4. In the light of the legal position explained by the Full Bench, Shri S. P. Bhandarkar, learned counsel for the petitioners fairly submits that in view of the answer given by the Full Bench, the challenge as raised to the award would not now succeed.

5. The learned counsel for the respondents do not dispute this aspect.

6. Hence, considering the judgment of the Full Bench dated 17/12/2021, the prayers made in writ petition cannot be granted. The writ petition is accordingly dismissed.

7. It is open for the petitioners to seek enhancement in the amount of compensation in accordance with law, if so advised.

8. Pending civil applications are also disposed of.

(G. A. SANAP, J.)

(A.S. CHANDURKAR, J.)

Choulwar

VITHAL
MAROTRAO
CHOULWAR

Digitally signed by
VITHAL MAROTRAO
CHOULWAR
Date: 2021.12.23
11:14:25 +0530