

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

MISC. CIVIL APPLICATION (REVIEW) NO.252 OF 2022
IN
WRIT PETITION NO.2997 OF 2020

{Duneshwar Suryabhan Pethe and Ors. ...**Versus**... State of Maharashtra
and Ors.}

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

Court's or Judge's order

Ms. P. S. Daga, Advocate for the Petitioners.
Shri. N. S. Rao, AGP for the Respondent Nos.1 to 3.
Shri. A. Parchure, Advocate for Respondent No.4.
Shri. J. B. Kasat, Advocate for the Respondent Nos.5 and 6.
Shri. G. A. Kunte, Advocate for Respondent No.7.

CORAM : SUNIL B. SHUKRE AND
SMT. M. S. JAWALKAR, JJ.

DATE : 29th APRIL, 2022.

. Heard Ms. P. S. Daga, learned Counsel for the
Petitioners, Shri. N. S. Rao, learned Assistant
Government Pleader for the Respondent Nos.1 to 3,
Shri. A. Parchure, learned Counsel for Respondent No.4,
Shri. J. B. Kasat, learned Counsel for the Respondent
Nos.5 and 6 and Shri. G. A. Kunte, learned Counsel for
Respondent No.7. All of appeared by waiving notice of
service.

2. In paragraph 4 of the judgment under review, this
Court has noted certain facts and on the basis of those
facts recorded its findings. These observations and

findings appearing in paragraph 4 of the judgment, are reproduced thus :

“4. On 02.09.2021 pursuant to the notice issued in the writ petition, the Collector, Nagpur found that even though the petitioners were occupiers of the building that was standing on the land under acquisition, none of the petitioners had been issued any notice. It was stated on behalf of the Collector that fresh notices were proposed to be issued to all the concerned occupiers for taking necessary action for distributing the amount of compensation as per the Act of 2013. Accordingly fresh notices were duly issued and thereafter the names of the petitioners came to be included by following the provisions of Section 21 of the Act of 2013. By the affidavit dated 27.07.2021 revised details of properties especially CTS No.421 were obtained from the Office of the City Survey Officer and those details included the names of the petitioners. Pursuant to the aforesaid, the grievance of the petitioners with regard to absence of their names in the award to enable them to receive compensation pursuant to acquisition of the part of the building standing on CTS No.421 now stands redressed.”

3. It would be clear from the findings recorded that this Court considered the fact that pursuant to the fresh notices issued to the Petitioners, names of the

Petitioners came to be included by following the provisions of Section 21 of Act of 2013, and therefore, this Court also found that grievance of the Petitioners with regard to their names not appearing in the Award now stands redressed. The factual position, as agreed by the rival parties is, however otherwise. Although notices have been issued and they have been duly received by the Petitioners, the further procedure regarding inclusion of their names in the Award has not been completed and therefore, the grievance of the Petitioners with regard to not finding of their names in the Award in question still remains.

4. The Land Acquisition Officer, as submitted on his behalf by the learned Assistant Government Pleader, finds no difficulty in inclusion of the names of the Petitioners in the Award, if there is a judicial determination to that effect from this Court. Once, it is found that the Petitioners are the persons interested in the land acquired, they would be entitled for inclusion of their names in the Award so as to receive the compensation proportionately. Therefore, non inclusion of their names in the Award can be considered to be a clerical error and that means provisions of Section 33 of

Act of 2013 would come into play. This provision of law enables the Collector to modify the Award by making necessary corrections, if there are any clerical or arithmetical mistakes in the Award. So, the Collector can very well correct the Clerical mistake which has occurred in the present case. However, only difficulty, as we see, faced by the Collector is of the Bar of limitation. The Award is of the date of 07.08.2020 and the Collector cannot exercise his power under Section 33 of Act of 2013 to correct the clerical or arithmetical mistakes after expiry of period of six months from the date of the Award. But, this difficulty, we find, can be overcome in the interest of justice and equity by exercising extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. In view of above, in modification of the findings recorded in paragraph 4 of the judgment under review to the effect that the grievance of the Petitioners in this behalf has been redressed, we find that the grievance of the Petitioners as regards the inclusion of their names in the Award is yet to be redressed. In further modification, we find that this grievance needs to be redressed and, therefore, we direct the Land Acquisition Officer to

correct the clerical mistake which has cropped up in the Award in question by including the names of the Petitioners in the Award in question. Such correction be made within four weeks from the date of receipt of copy of the judgment. After complying with this direction, the Land Acquisition Officer shall take further necessary steps as are mandated in law.

6. The review application is disposed of in the above terms. No costs.

(JUDGE)

(JUDGE)

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