



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9607 OF 2016

Latikabai w/o Ramrao Solanke

... PETITIONER

VERSUS

The State of Maharashtra & Others

... RESPONDENTS

.....
Mr. M.S. Deshpande, Advocate for Petitioner
Mr. P.S. Patil, A.G.P. for Respondents
.....

CORAM: ALOK ARADHE, CJ. &
S.G. CHAPALGAONKAR, J.

DATE: 20th MARCH, 2025.

ORAL JUDGMENT (PER : CHIEF JUSTICE) :

1. Rule. Rule is made returnable forthwith. By consent of the learned Counsel for the parties, the Writ Petition is heard finally.

2. This Writ Petition takes an exception to the order dated 3/2/2016, passed by the Deputy Collector (Land Acquisition), Aurangabad, by which application filed by the

Petitioner under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as the Act of 1894) has been dismissed.

3. In order to appreciate the grievance of the Petitioner, relevant facts are stated in brief as under :

The land bearing Gut No.70, admeasuring 00 H 62 R, situated at village Ambegaon, Taluka Kannad, District Aurangabad was required for the purposes of construction of percolation tank. Therefore, notification under Section 4(1) of the Act of 1894 was issued on 26/9/2003. The aforesaid notification was published in two newspapers namely Daily Sanjay Warta and Daily Lokmat Times, published from Aurangabad on 29/10/2003 and 26/10/2003 respectively. After publication of the notification under Section 4(1) of the Act of 1894, the Petitioner purchased the land from the erstwhile owners by a registered Sale Deed on 16/2/2004. The Petitioner along with the erstwhile owners of the land in question, applied for payment of compensation. Thereupon, the payment of compensation under the award along with

erstwhile owners of the land in question was paid to the Petitioner.

4. Thereafter the Petitioner filed an application under Section 28-A of the Act of 1894. The aforesaid application has been rejected by the Collector by an order dated 3/2/2016, *inter-alia* on the ground that the name of the Petitioner does not appear in the award. In the aforesaid factual background, this Petition has been filed.

5. Learned Counsel for the Petitioner submitted that, the notification under Section 4(1) of the Act of 1894 was published in the village on 4/6/2004 and the Petitioner had purchased the land vide registered Sale Deed dated 16/2/2004 i.e. prior to the publication of notification under Section 4(1) of the Act of 1894 in the village. Therefore, the Petitioner is entitled to invoke Section 28-A of the Act of 1894.

6. On the other hand, learned A.G.P. for the Respondents has submitted that, the Petitioner has purchased the land after publication of notification under Section 4(1) of the Act of 1894. Therefore, the Petitioner has

no locus to maintain the application under Section 28-A of the Act of 1894. It is further contended that, since the Petitioner along with erstwhile owners had submitted an application seeking payment of compensation, therefore, the amount determined by the Collector as compensation was paid to the Petitioner along with erstwhile owners.

7. We have considered the rival submissions of both sides and have perused the record. The notification under Section 4(1) of the Act of 1894 was issued on 26/9/2003. The aforesaid notification is published in the Gazette on 16/10/2003 and was published in two daily newspapers namely Daily Sanjay Varta and Daily Lokmat Times dated 29/10/2003 and 26/10/2003 respectively, which are published from Aurangabad. After issuance of the notification under Section 4(1) of the Act of 1894 and its publication in the Gazette on 16/10/2003, as well as in two daily newspapers namely Daily Sanjay Varta and Daily Lokmat Times dated 29/10/2003 and 26/10/2003 respectively, the Petitioner has purchased the land on 16/2/2004. Therefore, the name of the Petitioner was rightly not mentioned in the award and consequently, the Petitioner has no locus to

maintain the application under Section 28-A of the Act of 1894. Needless to state that, in case the original owners invoke Section 28-A of the Act of 1894 and ask compensation at enhanced rate, the Petitioner shall be at liberty to avail such remedy as may be available.

8. With the aforesaid observations, the Petition is disposed of. Rule discharged.

(S.G. CHAPALGAONKAR, J.)

(CHIEF JUSTICE)

FMPathan/-