



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

WRIT PETITION NO. 1944 OF 2022

(Dayaram Kaniram Rathod and others vs. State of Maharashtra and others)

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

Court's or Judge's order

Mr.Nihalsingh Rathod, Advocate for the petitioners.
Mr.S.V.Narale, Assistant Government Pleader for respondent
Nos.1 to 3 and 6.
Mr.T.U.Tathod, Advocate for respondent No.4 and 5.

CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.

DATE : FEBRUARY 05, 2025

- 1) Heard Mr.Rathod, learned counsel for the petitioners.
- 2) The petition questions the acquisition of the lands situated in Lohara Tal. Pusad on the ground that Section 6 declaration was published one year after the Section 4 Notification. He also submits that since an objection was raised under Section 5A of the Land Acquisition Act, 1894 and an opportunity of hearing was not given, the entire execution proceeding stands vitiated.
- 3) In the instant matter the Section 4 Notification was published in the local news paper Vidarbha Matdar on 20/04/2008 and Dainik Jansagram on 23/04/2008, it was published in the Official Gazette on 01/05/2008 and thereafter, in the village on 18/09/2008. A corrigendum was issued 28/05/2009 by publication in the Official Gazette (page 53) by which the land of Survey No.162 which is one of the land with which the petitioners are concerned came to be notified for acquisition.

4) The Section 6 declaration was published in the news papers Dainik Namo Maharashtra on 27/09/2009 and Dainik Sinhzep on 01/10/2009 and in the Official Gazette on 10/09/2009 and village on 26/11/2009.

5) The language of Section 4(1), by a deeming provision, provides that the last dates of the publication, either in the Official Gazette or daily news papers or in the locality would be referred to as the date of publication of the Notification. In view of which Section 6 declaration in terms of Section 6(1) second proviso will have to be published within one year from the date of such last publication. In the instant matter considering the dates as given above, by virtue of the deeming fiction as contained in Section 4(1) dated 18/09/2008 even if the corrigendum is ignored is taken to be the last date of publication of Section 4 Notification then the publication of Section 6 declaration on 10/09/2009, would be falling within a period of one year. If we consider the corrigendum dated 28/05/2009, then also the declaration is made within one year. The dates are indicated in para 1(2) and 1(3) of the Award dated 30/04/2010 (page 64). In that view of the matter, we are not inclined to accept the contention that the declaration has been issued beyond the time stipulated under clause (ii) of proviso to Section 6(1) of the Land Acquisition Act, 1894.

6) Though ***Devender Kumar Tyagi and others vs. State of Uttar Pradesh reported in (2011) 9 SCC 164*** has been relied upon by Mr. Rathod learned counsel for the petitioners in our considered opinion, it does not lay down any proposition apart from what has been stated above.

7) The next contention is regarding the non-affording of an opportunity and decision of the objection claimed to have raised by the petitioners on 11/08/2008 (pg.46). In our considered opinion, it is too late in the day to raise this plea, as the Award has already been passed on 30/04/2010 (pg.64) and it was incumbent upon the petitioners, in case objections were not being considered and decided, to have approached this Court within a reasonable period of time from the date of filing of the objection which has not been done.

8) Though Mr. Rathod relies upon G.R. dated 14/06/2001 and specifically Clause 5(B) (pg.106) to contend that the objections under Section 5A have to be decided within 30 days from its receipt, the same cannot come to rescue of the petitioners at this belated stage, for the reason that the cause to complain, regarding non-decision of the objections, then can be said to accrue to the petitioners on 10/09/2008 after passage of 30 days from the date of the objection, which again ought to have been challenged by them all poste-haste and in any case before passing of the Award, which has not been done.

9) The petitioners by their own conduct have permitted the proceedings to go ahead without raising any grievance of any nature in this regard and have raised this plea only after more than 15 years from the date of the objection, which cannot be entertained. We therefore, do not see any merit in the petition, as such the petition is dismissed. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

KOLHE