



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 744 OF 2007

Kachrusing s/o. Santramsingh Rajput
(died) Through LRs. And Ors. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

WITH

WRIT PETITION NO. 1077 of 2007

Rajeshwar S/o. Damodhar More ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

WITH

WRIT PETITION NO.2334 OF 2007

M/s. Rana Sahebrao Mannuram ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

...

Mr. R. N. Dhorde, Senior Advocate a/w Mr. P. S. Dighe and Mr. R. L. Kute, i/by V. R. Dhorde, Advocate for the Petitioners.

Mr. Vaibhav P. Deshmukh, Advocate for Respondent No.3 in WP/744/2007.

Mr. Shambhuraj V. Deshmukh, Advocate for Respondent No.3 in WP/1077-2334/2007.

Dr. Kalpalata Patil Bharaswadkar, A.G.P for Respondent Nos. 1 and 2.

CORAM : KISHORE C. SANT &
SUSHIL M. GHODESWAR, JJ.

RESERVED ON : 17th APRIL 2026.

PRONOUNCED ON 12th JUNE 2026.

JUDGMENT :- [PER – KISHORE C. SANT, J.]

1. Heard Mr. Dhorde, the learned Senior Advocate i/by Mr. R. L. Kute, Advocate for Petitioners, Mr. V. P. Deshmukh, and Mr. S. V. Deshmukh, learned Advocates for Respondent No.3 in respective petitions and Dr. Bharaswadkar, learned AGP for Respondent Nos. 1 and 2. By consent of the parties, the petitions are taken for final disposal.

2. Since the facts are identical and issues are common in these writ petitions, they are taken together for the purpose of discussion, the facts are taken from WP/1077/2007.

3. The petitioners have approached this Court with a prayer to declare the land acquisition proceedings dated 18.12.2006 in respect of Gut No.128, admeasuring 52R, situated at village Tisgaon, Tal. and Dist.

Aurangabad, as cancelled. Later on, a prayer was added to declare the proceedings of land acquisition have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and to declare that the declaration dated 10.12.1998 under Section 6(1) and Section 6(2) of the Land Acquisition Act, is illegal, arbitrary and liable to be quashed and set aside.

4. The petitioners purchased the land admeasuring 74R from Gut No.113 situated at Village Tisgaon Dist. Aurangabad. By order dated 09.09.1986, The Collector, Aurangabad, granted N.A. permission in favour of the petitioners. The petitioners started the business of a stone crusher on the said land. On 16.04.1992, the Draft Development Plan was published in the Government Gazette by CIDCO, wherein the land owned by the petitioners was shown for widening road. The proposal for acquisition of the lands was submitted on 02.08.1996. The Special Land Acquisition Office came to be appointed. On 04.08.1998, a notification under Section 126(4) of the Maharashtra Regional and Town Planning

Act (hereinafter referred to as, "MRTP") read with Section 6 of the Land Acquisition Act came to be issued. On 24.09.1998, it was stated that the notification came to be published in the newspaper namely, daily "Ajanta" and on 25.09.1998, the notification under Section 6 also came to be published in the urdu newspaper namely, daily "Raheber". The Notification also came to be published in the Government Gazette on 10.12.1998. It was further stated that the notification was published in newspaper namely, daily "Lokmat". However, no such notification is published in newspaper namely, daily "Lokmat". A panchnama was shown to be prepared by pasting Section 6 notification on 12.12.1998. It was stated that the notice under Section 9 of the Land Acquisition Act came to be issued and panchnama came to be executed to that effect. On 14.08.2001, a Draft Development Plan came to be sanctioned by the Government. On 07.02.2002, a notification by way of rectification came to be published in the Government Gazette and the same was published in the newspaper daily "Sanjiwarta". An award came to be passed on 18.12.2006 acquiring 54R land of the petitioners from Gut No.113. On 23.12.2006, the petitioners received a notice under Section 12(2) of the

Land Acquisition Act. It is stated that it is only on that, the petitioners learned about the acquisition proceeding. The petitioners, therefore, replied to the notice on 25.12.2006, stating that no earlier notice of declaration was received and that they had no knowledge. On 08.01.2007, the learned Special Land Acquisition Officer (SLAO) published corrigendum correcting the name of newspaper, in which notice under Section 6 was published as daily "Lokmat" instead of daily "Ajanta". On 18.01.2007, a representation was made by the petitioners to the Administrator, CIDCO stating that he is ready to give the land for a service road. However, other reservation of the land be deleted. On 12.02.2007, the petitioners filed a writ petition No.1077/2007 in which CIDCO filed its reply and produced on record publication of Section 6 notification in the newspapers daily "Ajanta". This Court dismissed the said petition on 05.03.2007. The petitioners filed SLP bearing No.8859/2007 before the Hon'ble Apex Court. The Hon'ble Apex granted leave and decided Civil Appeal No.2559/2013 and remanded the matter back to this Court. The petitioners have now filed additional affidavit on record by annexing notification dated 17.09.2014 issued by

National Highway Authority of India. The petitioners thereafter produced on record a copy of letter dated 17.01.2001 issued by Administrator, CIDCO in which again reference was only to the newspaper daily "Rahebar".

5. Mr. Dhorde, the learned Senior Advocate, appearing for Petitioners, mainly argued that there is no compliance with Section 6 of the Land Acquisition Act, as the publication was not made in two widely circulated newspapers in the locality and no public notice was given at convenient place in the locality. The procedure under Section 6(2) of the Land Acquisition Act is not followed. Though it was stated that notice was published in daily "Lokmat", in fact, it was published in some other newspaper, and now the name of the newspaper is shown as "Ajanta" of which no copy is produced. The notice under Section 6(1) was published in the Official Gazette on 10.12.1998 whereas the publication in the newspapers is made much before i.e. in the month of September 1998. No public notice of declaration is given at a convenient place in the locality. The panchnama dated 12.12.1998, showing that the notice was

pasted at a convenience place, is fabricated. He thus submits that the proceedings itself deserves to be declared as without following due process of law, and therefore, as bad in law. In the alternative, it is submitted that the earlier proceedings under the Land Acquisition Act is lapsed in view of Section 126(4) of the MRTP Act. He further submits that, there is also non-compliance of the procedure under Section 13-A of the Land Acquisition Act. The learned SLAO replaced the name of newspaper clearly showing non-compliance with the prescribed procedure. He submits that, when the petitioners are running the business in the premises, still there was no notice or knowledge given to them at any point of time. So far as WP/744/2007 is concerned, he submits that the petitioners are ready to give the land without compensation. However, his business be kept alive.

6. In support of his submissions, learned Senior Advocate relied upon the following judgments:

(i) *Kunwar Pal Singh (Dead) By LRs. Vs. State of U. P. and Ors.*¹;

1 (2007) 5 SCC 85

- (ii) *Ashok Kumar and Ors. Vs. State of Haryanana and Anr.*²;
- (iii) *Bhausahab Tavnappa Mahajan and Ors. Vs. State of Maharashtra and Ors.*³;
- (iv) *State of Uttar Pradesh and Ors. Vs. Abdul Ali and Ors.*⁴;
- (v) *Naresh Kumar and Ors. VS. Government (NCT of Delhi)*⁵;
- (vi) *Annapurna Shamrao Thaokar and Anr. Vs. State of Maharashtra and Ors.*⁶.

7. Learned Advocate Mr. S. V. Deshmukh, appearing for Respondent No.3-CIDCO, vehemently argued the petitions. He submits that the petitions deserve to be dismissed. In the present case, the acquisition of the lands was under Section 126 of the MRTP Act and not under the provisions of Land Acquisition Act. The judgments relied upon by the petitioner would not be applicable. There is every compliance made of the procedure. He submits the Writ Petition No.1077/2007 was dismissed earlier and that, by way of remand, the Hon'ble Apex Court remanded the matter back only on a particular point and therefore, no other argument can now be considered. Now, the petitioners cannot argue beyond the terms of remand. The Hon'ble Apex Court, by its order,

2 (2007) 3 SCC 470

3 [1982 Mh.L.J. 229]

4 (2017) 3 SCC 108

5 (2019) 9 SCC 416

6 2012 (5) Mh.L.J. 309

had remanded the matter only on point of compliance of Section 6(2) of the Land Acquisition Act and therefore, the petition is required to be decided only on that question. So far as other questions are concerned, those are disputed questions of fact.

8. Learned Advocate Mr. S. V. Deshmukh further submits that the learned SLAO, by corrigendum, had only corrected typographical mistakes. So far as publication in the Gazette under Section 6(1) of the said Act is concerned, there is no dispute that it was published in daily newspaper namely, "Rahebar" which itself is sufficient and would be a substantial compliance. The mistake is only in respect of date and the name of the newspaper. From the pleadings, it is seen that the petitioners had knowledge about the Draft Development Plan on 16.04.1992. So far as Section 13-A is concerned, he submits that there is no correction in the award as such, and therefore, the rights of the petitioners are not prejudicially affected. The possession of the land is already taken long back. Nothing remains to be decided now. There is already a panchnama drawn, showing that the notices were pasted at

the conspicuous place in the locality. He thus prays for rejection of the writ petitions. Learned Advocate Mr. V. P. Deshmukh, learned Advocate appearing for Respondent No.3 in WP/744/2007, also adopted the argument of learned Advocate Mr. S. V. Deshmukh.

9. The fact of possession is disputed by learned Senior Advocate. He submits that the petitioners are still carrying business on their land. He further submits that the affidavit is not filed by learned SLAO but filed by CIDCO. The CIDCO may not have knowledge about the actual taking of possession, and therefore, the same need not be considered.

10. In the case of *Kunwar Pal Singh* (supra), the Hon'ble Apex Court held that the publication of declaration under Section 6(2) is necessary and must be made in all the three modes of publication specified under the section and cannot be waived. It was further held that when a statute prescribes a particular manner for doing the particular act, then such act must be done in the same manner.

11. In the case of *Ashok Kumar and Ors.* (supra), it is held that the provisions of Section 6 of the Land Acquisition Act are beneficial provision considering the interest of the land owners. The provisions therefore should be considered having regard to the purport and intent of the Act.

12. In the case of *Bhausahab Tavnappa Mahajan and Ors.* (supra), is in respect of publication of notification in newspaper under Section 3 of the Maharashtra Agricultural Produce Marketing Committee (Regulation) Act.

13. In the case of *State of U.P. and Ors. Vs. Abdul Ali and Ors.* (supra), it is held that no correction in the notification under Section 4(1) or the declaration under Section 6 can be made under Section 13-A of the Land Acquisition Act. The correction is limited only to correct the clerical mistakes in the award and that too within six months.

14. In the case of *Naresh Kumar and Ors.*(supra), the Hon'ble Apex Court again considered the provisions of Section 13-A and held

that it is not permissible to review the award. Only clerical and arithmetical errors in the award can be corrected within six months and not beyond that period.

15. In the case of *Annapurna Shamrao Thaokar and Anr.* (supra), is also under the Land Acquisition Act. This Court finds that in view of arguments of learned Advocate Mr. S. V. Deshmukh, presently, the acquisition proceedings is under MRTP Act and not under the Land Acquisition Act, where the object is different and the provisions of Land Acquisition Act are not strictly applicable.

16. Learned Advocate Mr. S. V. Deshmukh relied upon the judgment in the case of *Ek Nath Punjaji Nawale Vs. State of Maharashtra and Ors.*⁷ The said judgment is delivered specifically considering the provisions of MRTP Act. Paragraph No.35 of the said judgment reads as under:

“35. Even assuming that a declaration is required to be made in two local news papers, the question is, whether on failure to do so, the acquisition is vitiated. In the

7 [2012 (5) Mh.L.J. 94

case of Special Deputy Collector, Land Acquisition C.M.D.A. Vs. J. Sivaprakasam and Ors. [(2011) 1 SCC 330], the Apex Court has considered the similar requirement, incorporated in Sub-section (1) of Section 4 of the said Act of 1894, of publication of the notification in two news papers having circulation in the locality. The Apex Court held that the requirement is of publishing notification in two news papers having reasonably wide circulation. However, in paragraph 36 of the said judgment the Apex Court has held thus :-

“36. It is significant to note that there is no averment in the writ petition that the respondents were not aware of the proposed acquisition. It is evident that they were aware of the notification. It is also inconceivable that Respondents 5 to 11 who knew about the proposed acquisition would not have informed Respondents 1 to 4 about the proposed acquisition. Be that as it may. Therefore, even if the publication in two regional language news papers is considered to be not in compliance with the requirements of Section 4(1), it cannot affect the validity of the preliminary notification or the consequential proceedings in regard to Survey Nos. 186/1 and 186/2.”

17. Mr. S. V. Deshmukh also relied upon the judgment passed by this Court in WP/10217/2014. The said judgment is delivered by this Court very recently. The batch of such writ petitions was also in respect of very same acquisition and identical set of facts and the grounds wherein this Court has dismissed the writ petition. This Court in the said judgment has already considered even in the judgment in the case of ***Ek Nath Nawale*** (supra), and dismissed the petition.

18. This Court thus finds that no case is made out calling for interference at the hands of this Court. The writ petitions, therefore,

stand dismissed with no order as to costs.

19. Rule stands discharged.

[SUSHIL M. GHODESWAR, J.]

[KISHORE C. SANT, J.]

1. At this stage, the learned Advocate for the petitioner prays for interim relief to continue for a period of six weeks.

2. Since the interim relief is continued since long, the same be continue for a period of six weeks from today.

[SUSHIL M. GHODESWAR, J.]

[KISHORE C. SANT, J.]