

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

**WRIT PETITION NO. 410 OF 2018**

Rajendrakumar s/o Nandlal Thada

Vs.

State of Maharashtra and others

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

Court's or Judge's orders.

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Shri M.G. Sarda, Advocate for petitioner.

Ms. S.S. Jachak, AGP for respondent Nos.1 & 2/State.

Shri D.M. Kale, Advocate for respondent No.3.

**CORAM : SUNIL B. SHUKRE AND**  
**ANIL L. PANSARE, JJ.**

**DATE : 03.01.2022.**

After hearing this matter quite at length, a query was raised by this Court but learned AGP was not able to answer it. The query was with regard to the calculation of the period of limitation of two years from the date of publication of declaration under Section 6. Learned AGP, has, however, sought further time to get instructions in the matter.

2. Before granting time to the State, we would like to make some observations here for the sake of record and they are as follows :

(i) Section 6(2) of the Land Acquisition Act, 1894 (for

short 'Act of 1894'), which provision is relevant here for the reason that even though the final award has been passed under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the process of acquisition has begun in this case as per the procedure prescribed under the old Act, which is Land Acquisition Act, 1894, prescribes that Section 6 declaration be published in the Official Gazette and also in two daily newspapers circulating in the locality in which the subject land is situated and also by affixing the substance of such declaration at convenient places in the relevant locality and the last of the dates of such publication and the giving of such public notice by affixing at convenient places in the relevant locality is to be taken as the final date of publication of declaration under Section 6 of the Land Acquisition Act, 1894.

(ii) By following the aforestated procedure, the Land Acquisition Officer published Section 6 declaration in the manner as given below:

(i) Dainik Sairan dated 18.06.2013

(ii) Dainik Vishwajanadhar dated 19.06.2013 and

(iii) Gazette Notification of the State of Maharashtra dated 20.06.2013

(iii). It appears that after 20.06.2013, for a considerable period of time, the public notice of the substance of the Section 6 declaration was not given by the Land Acquisition Officer at convenient places in the locality in which was situated the subject land and even before that, the Land Acquisition Officer, issued notice under Section 9(1) on 08.07.2013 and published this notice along with Section 6 declaration by affixing the same on the notice boards at Tahsil Office Shegaon, Municipal Council Office Shegaon and Talathi Office Shegaon, simultaneously on 21.10.2013.

(iv). Section 6(2) required the Land Acquisition Officer to publish Section 6 declaration not only in the Official Gazette and in two daily newspapers but also at convenient places in the locality where the subject land was situated.

(v). As stated earlier, here is a case, at least as seen from the award, where for a considerable period of time after 20.06.2013, the last of the modes of publication of Section 6 declaration which is notice of the substance of Section 6 declaration to be given at convenient places in the relevant locality, was not taken

recourse to. Even before this last of the mandatory modes of publication of Section 6 declaration was adopted, notice under Section 9(1) was published on 08.07.2013 and along with it also a copy of Section 6 declaration was published.

(vi). As per the scheme of the Act of 1894, Section 9(1) notice cannot be issued unless and until the publication of Section 6 declaration is complete in the manner prescribed under Section 6(2) of the Land Acquisition Act, 1894, but, this procedure has not been followed and Section 9(1) notice was issued, *prima facie*, prematurely. Curiously enough, the last of the modes of publication of Section 6 declaration was adopted simultaneously along with publication of notice under Section 9(1) of the Act, 1894.

(vii). In paragraph 8 (Page No.38) of the award dated 29.01.2016 it has been stated that Section 6 declaration was published first and thereafter, notice under Section 9(1) was issued and published on 08.07.2013.

3. These facts, noted above, create a doubt in one's mind as to what is the exact final date of publication of Section 6 declaration, whether it is

20.06.2013, as it appears from the dates mentioned in paragraph 6 of the final award or it is 21.10.2013, as it appears from the date mentioned in paragraph 8 (Page 38) of the final award.

4. There is a further doubt which arises in this case and it is about the date of publication of Section 9(1) notice. This notice, as we have already stated earlier, cannot be issued unless and until the formality regarding publication of Section 6 declaration as per the procedure prescribed in sub-Section (2) of Section 6 is completed and if this procedure was not completed, the Land Acquisition Officer would owe an explanation as to why did he make haste in this case in publishing the notice under Section 9(1) of the Act, 1894 even before the remaining mode of publication of Section 6 declaration had not been resorted to.

5. We grant further time to the State to clarify the issue.

6. Put up this matter for final hearing at admission stage on **24.01.2022**.

**JUDGE**

**JUDGE**