

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.367 OF 2022

Mr Lucio De Sa,
Age 68 years,
Residing next to Police Out Post,
Ribandar – 403006, Goa.

...Petitioner

Versus

Gangaram Vaman Naik,
(since deceased)
Through his Legal Representatives

(a) Smt Gangavati Gangaram
Saperkar, Major in age

(b) Shri Ashok Gangaram Naik alias
Shri Ashok Gangaram Naik
Saperkar, Major in age.

(c) Shri Premananda Gangaram
Naique alias shri Premananda
Gangaram Naik Saperkar,
Major in age.

(d) Shri Anand Gangaram Naik alias
Shri Anand Gangaram Naik
Saperkar, Major in age.

(e) Shri Rajendra Gangaram Naik alias
Shri Rajendra Gangaram Naik
Saperkar, Major in age.
All residents of St. Bras,
Gaundaulim, Cumbharjua –
403107, Tiswadi.

....Respondents

Mr F.E. Noronha, Advocate for the Petitioner.
Mr A.D. Bhobe, Advocate for Respondent No.2.

CORAM: M. S. SONAK, J.

Reserved on: 9th NOVEMBER 2023

Pronounced on: 1st DECEMBER 2023

ORDER :

1. Heard Mr F.E. Noronha for the petitioner and Mr A.D. Bhobe for the respondent no.2.
2. The petitioner challenges the order dated 08.07.2022 made by the Ad hoc District Judge 2 (FTC), North Goa (Reference Court) dismissing the petitioner's application for recall of order dated 25.01.2017 in Land Acquisition Case No.46/2014. By the order dated 25.01.2017, the Reference Court merely allowed the legal representatives of the deceased Gangaram Naik to come on record and contest the claim for apportionment of compensation.
3. The brief facts in which the challenge arises are as follows. The State acquired the property measuring 3715 sq. metres. surveyed under no.33/3(P) Gaundaulim, Tiswadi (suit property) for the construction of approaches to Gaundaulim -Cumbharjua bridge under the provisions of the Land Acquisition Act.
4. The Special Land Acquisition Officer (SLAO) made an award dated 02.08.2010 in which he noted that there was a dispute of apportionment between the Petitioner (Owner) and Gangaram Vaman

Naik (Tenant). The award refers to some documents produced by Gangaram Vaman Naik in support of the claim of tenancy.

5. Accordingly, in the award dated 02.08.2010, the SLAO did not award the compensation in favour of either party but directed that the same be kept in revenue deposit until the parties produce documentary evidence in support of their respective claims. In, sum and substance, the SLAO made a reference to the Court for apportionment of the compensation in respect of the acquired land.

6. By further order dated 22.09.2014, the SLAO, after noting that neither party had produced any conclusive documents in support of their respective claims, ordered the transfer of the compensation amount to the Reference Court to determine the dispute of apportionment of compensation between the parties.

7. On 05.11.2014, the Reference Court issued notices to all parties returnable on 12.12.2014. On 12.12.2014, only the representative of GSIDC (Acquiring Body) appeared and the matter was adjourned to 21.01.2015. On 21.01.2015, advocate Ms S. Sawant appeared for the petitioners by filing her Vakalatnama. Advocate Ms S. Naik filed her Vakalatnama on behalf of the legal representatives of Gangaram Naik. She also filed an application providing the names of the legal representatives of Gangaram Naik along with the marriage certificate, etc. Copy of this application marked as Exhibit D-5 was furnished to the other parties and the matter was adjourned for their say to

20.02.2015. However, on 20.02.2015, the advocates for all the parties sought for a deferment and the matter was adjourned to 25.03.2015.

8. On 25.03.2015, advocate S. Naik filed a formal application to bring on record the legal representatives of Gangaram Naik. Copy of the same was furnished to the learned Counsel for the other parties. This application was marked as Exhibit D-8. At the request of the learned Counsel for the other parties, the matter was posted for reply on 18.06.2015. The petitioners by their belated response dated 21.01.2016 objected to the legal representatives of Gangaram Naik coming on record.

9. On 18.06.2015, the advocate for the petitioners and the GSIDC sought an adjournment to file replies and the matter was adjourned to 13.08.2015. On 13.08.2015, the advocate for GSIDC filed a reply but the advocate for the petitioners again sought adjournment for arguments/filing of written arguments and the matter was adjourned to 24.09.2015. On 24.09.2015, once again the matter was adjourned to 04.11.2015. The matter was again adjourned from 04.11.2015 to 07.12.2015.

10. On 07.12.2015, the advocate for the petitioners once again prayed for time to file a reply. The last and final opportunity was granted to file a reply. The advocate for the legal representatives of Gangaram Naik withdrew the application at Exhibit D-5 given the

pendency of the application at Exhibit D-8. Once again, the matter was adjourned for filing of replies to 22.01.2016.

11. On 22.01.2016, all the advocates appeared but the matter was adjourned for arguments to 22.02.2016, and directions were issued to advocate S. Naik appearing for the legal representatives of Gangaram Naik to clarify the documents furnished. The matter was adjourned to 14.03.2016 on which date necessary clarification was furnished in the presence of advocates for the petitioners and GSIDC and the matter was adjourned to 05.04.2016.

12. On 05.04.2016, the Reference Court framed issues and noted in the roznama that one of the issues, that is the issue of tenancy had to be decided by the competent authority. Accordingly, issue no.2 was referred to the Civil Judge Junior Division at Panaji in view of the amendment to the Agricultural Tenancy Act and the matter was adjourned to 08.06.2016. It is pertinent to note that this reference was not even opposed by and on behalf of the petitioners.

13. On 08.06.2016, the matter was adjourned to 06.08.2016 in the presence of the advocate for the petitioners. On 06.08.2016, it was decided to issue a reminder to expedite the tenancy issue. Again, this was in the presence of the advocate for the petitioners and the matter was adjourned to 29.09.2016. On 29.09.2016, the letter was issued to the appropriate Court dealing with the issue of tenancy, again in the

presence of the advocate for the petitioners and the matter was adjourned to 05.12.2016.

14. On 05.12.2016, again in the presence of the advocate for the petitioners, the matter was adjourned to 25.01.2017 for clarification/orders on the application at Exhibit D-8.

15. On 25.01.2017, the roznama records that the competent Court already decided the tenancy issue. Arguments were heard and the application at D-8 was allowed. On this date, the advocate for the petitioners chose not to remain present. The application at Exhibit D-8 was accordingly allowed on 25.01.2017 and the matter was posted on 21.02.2017.

16. On 21.02.2017, again none appeared for the petitioners and the matter was adjourned to enable the legal representatives of Gangaram Naik to file an affidavit in evidence. Again on 10.03.2017, 20.04.2017, 21.06.2017, 03.08.2017 and 18.09.2017, none appeared for the petitioners.

17. On 03.11.2017, an advocate appeared for the petitioners. The roznama records that the matter was adjourned because the Presiding Judge was transferred. Roznama records that the matter was adjourned for evidence/reply on 15.01.2018. On 15.01.2018 also the matter was adjourned for the applicant's evidence. Again, the roznama records the number of occasions on which there was no appearance on behalf of the petitioners.

18. Quite belatedly, that is on 07.01.2020, the petitioners filed an application for recall of the order dated 25.01.2017. The Reference Court dismissed this application vide the impugned order dated 08.07.2022. Hence, the present petition.

19. On the date of the award dated 02.08.2010, Gangaram Naik was very much alive, but he expired on 12.02.2011. A formal reference to the Reference Court was made on 15.10.2014. This was examined by the Reference Court and registered as Land Acquisition Case No.46/2014 on or about 20.10.2014.

20. On coming to know of such reference, the legal representatives of Gangaram Naik applied on 21.01.2015 and 25.03.2015 to the Reference Court that they are brought on record. Thus, steps were taken at the earliest opportunity before the Reference Court. By order dated 25.01.2017, the Reference Court allowed the application dated 25.03.2015, and the legal representatives of Gangaram Naik were brought on record. Quite belatedly, on 07.01.2020 the petitioners filed an application for recall of order dated 25.01.2017. This application was dismissed by the impugned order dated 08.07.2022. Hence, this Petition.

21. Mr Noronha submitted that the reference order was a nullity because, by the time the reference was made on 15.10.2014, Gangaram Naik had already expired. His legal representatives were not brought on record before the SALO. Alternatively, Mr Noronha submitted that the

provisions of CPC and the Limitation Act apply to the proceedings before the Reference Court and, therefore, the belated application of Gangaram's legal representatives to come on record should have been rejected by the Reference Court. He submitted that the Reference Court order dated 25.01.2017 was made without giving the petitioners an opportunity of being heard and further the view taken by the Reference Court about the inapplicability of CPC is a clear error of law. Based on these contentions, Mr Noronha contended that the impugned order warrants interference in the exercise of extraordinary jurisdiction of this Court under Articles 226 or 227 of the Constitution.

22. Mr Noronha relied on *M/s. Indana International Ltd. V/s. Santana Miguel Fernandes*¹ to submit that a suit against a dead person is a nullity and dismissed as such. He relied on *Amar Kaur V/s. Sadhu Singh*², *Bai Pani Vankar V/s. Madhabhai Galabhai Patel*³, *Roop Chand V/s. Sardar Khan*⁴ and *Rampratab V/s. Gavrishankar*⁵ to buttress the same contention.

23. Mr Noronha relied on *Special Land Acquisition Officer Bombay V/s. Harishchandra Ramji Patil*⁶, to submit that the

¹ 2007 (5) ALL MR 660

² AIR 1961 Punjab 57,

³ AIR 1953 Bombay 356

⁴ AIR 1928 Lahore 359

⁵ AIR 1924 Bombay 109

⁶ 2000 AIHC 154

provisions of Order 22 of CPC and the Limitation Act apply to a reference made under the Land Acquisition Act. He relied on *Alihusain Abbasbhai V/s. Collector Panch Mahals*⁷ to buttress the same contention.

24. Finally, Mr Noronha also relied on *U.P. Awas Evam Vikas Parishad V/s. Gyan Devi*⁸ to submit that the provisions of CPC also apply to a reference under the Land Acquisition Act. Based on this, Mr Noronha submitted that the impugned order suffers from a clear error of law and, therefore, warrants interference.

25. Mr Bhobe submitted that the acquiring authority was not concerned with the apportionment dispute between the parties. He submitted that since there was a dispute between the petitioners and Gangaram, the SALO made a reference under Section 30 to the Reference Court so that this dispute could be resolved after due adjudication. He submitted that the petitioner never raised pleas about the reference itself being a nullity in his application for recall dated 07.01.2020. He submitted that the objections raised by the petitioners were duly considered by the Reference Court and rejected. He submitted that the impugned order promotes substantial justice.

26. Based upon the contentions raised by and on behalf of the petitioners and upon due consideration of the material on record and

⁷ AIR 1967 Gujarat 118

⁸ 1995 (2) SCC 326

the decisions relied upon, in my judgment, no case is made out to interfere with the impugned order in the exercise of extraordinary jurisdiction under Article 227 of the Constitution. The reasons for this conclusion are discussed hereafter.

27. The application for recall of the order dated 25.01.2017 was made on 07.01.2020. The explanation for this inordinate delay was that the junior advocate appearing on behalf of the petitioners was under the bonafide impression that the reference was kept in abeyance pending the decision of the Mamlatdar on the tenancy issue. The explanation hardly inspires any confidence. At least from the roznama, which is produced on record, there was no warrant for such an impression.

28. As noted earlier, from the roznama produced, there was no warrant for the impression that the matter was adjourned sine die or was kept in abeyance. The advocate for the petitioners appeared before the Reference Court on several dates, including 03.11.2017. If indeed the petitioners or their advocates were under the impression that the matter was kept sine die or in abeyance, then there was no reason for them to appear on 03.11.2017 and other dates. Besides, the record shows that the matter was posted for clarification on 05.12.2016 in the context of the Petitioner's opposition. As noted earlier, the Advocate for the Petitioners appeared on several dates and sought adjournments. Even when the issue of tenancy was referred, no protest was lodged. On crucial dates, the Advocate for the Petitioners remained absent. In such

circumstances, the Petitioners can hardly or legitimately complain about any failure of natural justice.

29. In any case, the petitioner is not proposed to be non-suited on the grounds of delay. The Reference Court, in paragraph 16 of the impugned order, has no doubt observed that the application for recall was filed belatedly, that is, after three years since the order dated 25.01.2017 was made. The Reference Court has also observed that there was no sufficient cause explaining this delay. From this, the Reference Court inferred that the petitioners were only trying to delay the reference proceedings, which commenced in the year 2014. However, the application for recall was not dismissed on the grounds of delay.

30. The application for recall broadly cites three grounds: -

(i) Failure of natural justice since the petitioners were not heard before the Reference Court made the order dated 25.01.2017.

(ii) The reference made on 22.09.2014 by the SLAO was a nullity because at the time when the reference was made, Gangaram Vaman Naik had already expired on 12.02.2011.

(iii) The application dated 25.03.2015 made by the legal representatives of Gangaram Vaman Naik was time-barred.

31. Apart from the above three grounds, the application for recall of order dated 25.01.2017 states that though the deceased in this case was Gangaram Vaman Naik, the documents produced refer to “Gangaram Vaman Naik Saperkar”. Based upon this, it was urged that the documents do not relate to Gangaram Vaman Naik. An objection was raised about the non-production of the marriage certificate of Gangaram Vaman Naik to his wife. The other objection is about the daughters of Gangaram Vaman Naik not being named in the application.

32. At least before this Court, the contention relating to the failure of natural justice or the objections about the discrepancy in the name, non-production of the marriage certificate or the exclusion of Gangaram’s daughters were not seriously urged or pressed. In any case, the objections about the discrepancy in the name, the non-production of the marriage certificate or the failure to refer to the two daughters of Gangaram are quite frivolous. Based upon the same, no case is made out to recall the order dated 25.01.2017.

33. At the most, the Reference Court can make inquiries. If indeed some legal representatives have been excluded, they can be permitted to be brought on record now that Gangaram’s estate is sufficiently represented in the reference. The so-called discrepancy in the names and the documents or the issue of non-production of the marriage certificate are really matters of evidence. The same does not affect the

order dated 25.01.2017 by which the legal representatives of Gangaram were permitted to come on record.

34. The petitioners have not placed any material on record to show that the legal representatives of Gangaram were aware of the reference made by the SLAO in this matter. Therefore, upon the legal representatives coming to know about the pending reference before the Reference Court, they applied on 21.01.2015 and 25.03.2015 to bring themselves on record in place of the deceased Gangaram Naik. Incidentally, the application very clearly refers to the deceased Gangaram as “Gangaram Vaman Naik alias Shri Gangaram Vaman Naik Saperkar”. Along with the application, the legal representatives not only annexed the death certificate but also their birth certificates. A statement was made that the marriage certificate of Gangaram Naik was not available in the sub-registrar’s office or in the office of the Registrar of Births and Deaths. Therefore, the Adhar card and Election card were also enclosed along with the application.

35. The record shows that on 05.12.2016, the matter was posted before the Reference Court for clarification and orders. The advocate for the petitioners appeared on the said date. This means that the advocate was very much aware that orders would be made on the application for bringing on record the legal representatives of deceased Gangaram. Still, on the next date, that is on 25.01.2017, the advocate chose not to remain present or make any submission to oppose the application for bringing on record the legal representatives. As noted

earlier, the roznama refers to the several opportunities granted to the Petitioners and their Advocate. If such opportunities were not availed, it is hardly open to the Petitioners to complain about any failure of natural justice.

36. Thus, it is not correct to say that the order dated 25.01.2017 was made in breach of principles of natural justice or fair play. Full opportunity was granted to the Petitioner. The objections raised by the Petitioner, apart from being hyper-technical, were quite frivolous. The attempt was to obtain the entire compensation amount without any contest from the legal representatives of Gangaram Naik, who had claimed to be a tenant of the acquired land. The order only permits the legal representatives of the deceased Gangaram to come on record.

37. The petitioners were very much aware of the dispute of apportionment between themselves and Gangaram. The SALO's award makes clear reference to this dispute. Merely because the formal reference was made a little later and, in the meantime, Gangaram had expired, neither is the formal reference order liable to be treated as a nullity nor can the petitioners avoid adjudication based on a mere technicality in the fond hope that the entire compensation meant would be paid to them by default.

38. At least the writ jurisdiction of this Court cannot be invoked for such purposes. If the petitioners are confident that Gangaram's claim for tenancy had no merit or that Gangaram otherwise has no interest in

the compensation determined, the petitioners will perhaps be able to claim the entire compensation to the exclusion of legal representatives of Gangaram Vaman Naik. However, avoiding adjudication on this issue based on some technicalities will not be appropriate. At least the writ Court will not assist the petitioners in avoiding adjudication or claiming the entire compensation amount by default.

39. The principle that a proceeding instituted against a dead person is a nullity will not apply in the facts and circumstances in the present case. The decisions relied upon by Mr Noronha no doubt hold that a suit against a dead person is a nullity. However, this is not a case where some suit has been instituted against Gangaram Naik after he expired. Therefore, the decisions relied upon by Mr Noronha will not apply in this case.

40. Before the award was made by the SLAO, Gangaram, who was alive, had already staked his claim to the compensation amount. The SLAO duly considered this in the award made on 02.08.2010. An opportunity was granted to both the parties to produce further documents. However, since no further documents were produced, a formal reference was made for apportionment to the Reference Court. Gangaram was very much alive when the order dated 02.08.2010 was made. Merely because he expired before the formal reference was forwarded to the Reference Court in 2014, it cannot be said that the reference itself was a nullity because it was made when Gangaram had already expired. The forwarding of a reference in 2014 was, to a great

extent, a ministerial act. This was not akin to the institution of a suit against the dead person.

41. The Reference Court has not held that the provisions of CPC are inapplicable to reference proceedings. The Reference Court has merely pointed out that the principle about the institution of a suit against the dead person being a nullity cannot be invoked in the present case because this was not a case of an institution of a suit, but this was a case of reference being made by the SLAO under Section 30 of the Land Acquisition Act.

42. In *Harichandra Ramji Patil* (supra) and *Alihusain Abbasbhai* (supra), the Bombay High Court and the Gujarat High Court have indeed held that a conjoint reading of Section 145 of the CPC read with Section 53 of the Land Acquisition Act 1894_would indicate that the provision of Order 22 of CPC or the provisions of the Limitation Act would also apply to references under the Limitation Act. However, that by itself is not a good ground to set aside the impugned order or to set aside the order dated 25.01.2017 by which the legal representatives of Gangaram were allowed to come on record after the legal representatives found that the reference order had not included their names.

43. The factual position in *Harichandra Ramji Patil* (supra) or *Alihusain Abbasbhai* (supra) was not at all comparable to the factual situation in the present case. In *Harichandra Ramji Patil* (supra), the question that arose for determination was whether the State

Government was bound to bring the legal representatives of the deceased claimant on record or whether it was the responsibility of the legal representatives of the deceased claimant to apply that they be brought on record. The Court noted that the questions that were required to be considered were twofold, namely: (i) On the death of the claimant what is the procedure to be followed in bringing the legal representatives on record; and (ii) Once the Court passes the order allowing the legal representatives to be brought on record, whether the existing practice followed, namely directing the Government Advocate to carry out the amendment and serve the legal representatives needs to be disturbed.

44. In the context of the above questions, the Court held that though reference under Section 18 or 30 of the Land Acquisition Act was neither a suit nor an appeal, the provisions of Order 22 of CPC as well as the provisions of the Limitation Act would apply given the provisions of Section 53 of the Land Acquisition Act. However, this Court also held that once an application is maintainable under Order 22 of CPC, the limitation will be covered by Articles 120 and 121 of the schedule of the Limitation Act. Finally, the Court held that the existing practice of directing the Government Advocate to carry out the amendment need not be disturbed because, ultimately, it was the responsibility of the Government to make the reference, and technically, a reference once made could not be amended by the Court or the claimant. The Court, however, held that once the legal representatives make an application of

the claimant, the question of the State serving notice afresh on the legal representatives would not arise unless fresh notice is directed to be issued by the Court to the legal representatives, who are not represented before it.

45. Therefore, apart from the fact that the factual position or the questions which arose for determination in *Harichandra Patil* (supra) were different from those which arise in the present matter, certain observations in *Harichandra Patil* (supra) are sufficient to uphold the Reference Court's order. This Court, in *Harichandra Patil* (supra), has held that it was the responsibility of the State to have made a proper reference. Therefore, if the legal representatives of the deceased Gangaram pointed out the factum of Gangaram's demise and applied to come on record, there was no error on the part of the Reference Court in allowing such an application. No case was therefore made out for recall of the order dated 25.01.2017 by which legal representatives of Gangaram were brought on record.

46. *U.P. Awas Evam Vikas Parishad* (supra) decides that Section 50(2) of the Land Acquisition Act confers on a local authority from whom the land is being acquired a right to appear in the acquisition proceedings before the Collector and the Reference Court and adduce evidence for the purpose of determining the amount of compensation. The Court held that said right carries with it the right to be given adequate notice by the Collector and the Reference Court before whom acquisition proceedings are pending on the date on which the matter of

determination of compensation would be taken up. It is in this context that it was held that the acquiring authority is a necessary party to a reference by referring to the provisions of Order 1 Rule 3 and Order 1 Rule 1 of CPC.

47. The above decision again does not deal with the issue which arises in the present matter. As noted earlier, Gangaram was very much living when the award was made by the SLAO, flagging the apportionment dispute between the petitioners and Gangaram. By the time the formal reference order was made, Gangaram had expired. His legal representatives, upon coming to know of the reference before the Reference Court, applied and brought themselves on record. The record bears out the application was made at the earliest instance. There was no infirmity in the Reference Court allowing these representatives to come on record. Accordingly, no case was made out for the recall of such an order.

48. Apart from the above, the order allowing the legal representatives of Gangaram to come on record promotes substantial justice. This is not a case where the petitioners can be allowed to lift the entire compensation amount to the exclusion of the legal representatives of Gangaram even before the Reference Court adjudicates on the issue of entitlement and apportionment. In other words, the petitioners, cannot attempt to obtain the entire compensation amount even without adjudication by raising technical or hyper-technical pleas which do not go to the root of the matter.

49. If, ultimately, it is found that Gangaram and, after him, his legal representatives were indeed the tenants of the acquired property, then it would not be appropriate that they are deprived of the portion of the compensation determined by the SLAO. If, consequently, it is found that there was no merit in Gangaram's or his legal representatives' claim of tenancy, the petitioners can claim the entire compensation amount. Therefore, it is only appropriate that the issue of entitlement and apportionment is adjudicated on merits by the Reference Court one way or the other. In that sense, the impugned order promotes substantial justice.

50. In *Roshan Deen V/s. Preeti LaP*, the Hon'ble Supreme Court, has held that the purpose of powers conferred on the High Court under Articles 226 and 227 are to advance justice and not to thwart it. The Court has held that even where justice is the by-product of an erroneous interpretation of law, the High Court ought not to wipe out such justice in the name of correcting the error of law. The Court had held that the very purpose of constitutional powers being conferred on the High Court is to see that no person is subjected to injustice by violating the law. The lookout of the High Court, therefore, ought not to be merely to pick out any error of law through an academic angle but to see whether injustice has resulted on account of any erroneous interpretation of law. If justice becomes the by-product of an erroneous

⁹ (2002) 1 SCC 100

view of law, the High Court is not expected to erase such justice in the name of correcting the error of law.

51. In *State of Haryana V/s. Chandra Mani and Ors.*¹⁰, the Hon'ble Supreme Court has held that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice ought to be preferred.

52. Besides, the Hon'ble Supreme Court in the case of *Perumon Bhagvathy Devaswom, Perinadu Village V/s. Bhargavi Amma (dead) by LRs and Ors.*¹¹ has held that abatement requires judicial cognizance and must be by judicial order. An appeal bears no brand on its forehead that it has abated. Further, the Court has held that the expression “*sufficient cause for not making the application within the period of limitation*” should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case and the type of the case. Similarly, the expression “*sufficient cause*” in Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bonafide, deliberate inaction or negligence on the part of any party.

53. The Court has held that in considering the reasons for condoning the delay the Courts are more liberal with reference to application for setting aside abatements than other cases. The Court would loathe to

¹⁰ AIR 1996 SC 1623

¹¹ (2008) 8 SCC 321

punish a party with a foreclosure for unintended lapses. The approach of the Court should be to permit an adjudication on merits rather than terminate the proceedings on the ground of abatement. In such matters, the decisive factor is not the length of delay but the sufficiency of a satisfactory explanation. In the present case, it is doubtful whether there was any delay given the application at Exhibit D-5. The application at Exhibit D-8, was, in a sense, the continuation of the application at Exhibit D-5, which was withdrawn given the pendency of the application at Exhibit D-5. If the impugned orders are considered from this perspective, no case is made out to interfere with them.

54. Thus, for all the above reasons, no case is made out to interfere with the impugned order.

55. Accordingly, this petition is liable to be dismissed and is hereby dismissed. Since no notice was issued to the private respondents, no direction is made for payment of any costs.

56. The SLAO must place an authenticated copy of this order before the Reference Court on the next date.

M. S. SONAK, J.

NITI K
HALDANKAR

Digitally signed by
NITI K HALDANKAR
Date: 2023.12.01
17:11:53 +05'30'