

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 4661 OF 2007
WITH
CIVIL APPLICATION NO. 9155 OF 2008**

Shankar Chagan Jadhav and Others .. Petitioners

Versus

The State of Maharashtra and Others .. Respondents

Smt. A. G. Patil, Advocate for the Petitioners

Smt. M. A. Deshpande, A. G. P. for the Respondent / State

WITH

**WRIT PETITION NO. 4662 OF 2007
WITH
CIVIL APPLICATION NO. 9158 OF 2008**

Bhaginath Bajirao Shejwal and Others .. Petitioners

Versus

The State of Maharashtra and Others .. Respondents

Smt. A. G. Patil, Advocate for the Petitioners

Smt. M. A. Deshpande, A. G. P. for the Respondent / State

Shri S. S. Thombre, Advocate for the Respondent No. 3

WITH

WRIT PETITION NO. 4663 OF 2007
WITH
CIVIL APPLICATION NO. 9154 OF 2008

Mahadeo Deorao Miskin and Others .. Petitioners

Versus

The State of Maharashtra and Others .. Respondents

Smt. A. G. Patil, Advocate for the Petitioners

Smt. M. A. Deshpande, A. G. P. for the Respondent / State

Shri G. B. Rajale, Advocate for the Respondent No. 3

WITH

WRIT PETITION NO. 4665 OF 2007
WITH
CIVIL APPLICATION NO. 9152 OF 2008

Vishwanath Shidramappa kapse and Others.. Petitioners

Versus

The State of Maharashtra and Others .. Respondents

Shri G. S. Patil, Advocate for the Petitioners

Smt. M. A. Deshpande, A. G. P. for the Respondent / State

Shri A. G. Kanade, Advocate for the Respondent No. 3

WITH

WRIT PETITION NO. 4666 OF 2007
WITH
CIVIL APPLICATION NO. 9153 OF 2008

Sadashiv Satling Swami and Others .. Petitioners

Versus

The State of Maharashtra and Others .. Respondents

Shri G. S. Patil, Advocate for the Petitioners

Smt. M. A. Deshpande, A. G. P. for the Respondent / State

Shri A. G. Kanade, Advocate for the Respondent No. 3

WITH

WRIT PETITION NO. 4669 OF 2007

WITH

CIVIL APPLICATION NO. 9151 OF 2008

Pandurang Onkar Patil and Others .. Petitioners

Versus

The State of Maharashtra and Others .. Respondents

Shri G. S. Patil, Advocate for the Petitioners

Smt. M. A. Deshpande, A. G. P. for the Respondent / State

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.**

DATE : 24TH MARCH, 2015.

PER COURT :

1) Mr. Patil the learned counsel for the petitioners states that, the petitioner is restricting the reliefs in all these

writ petitions to the extent of benefit under section 34 of the Land Acquisition Act and is not pressing these petitions for benefit under section 23 (1-A) of the Land Acquisition Act.

2) According to the learned counsel benefit under section 34 of the Land Acquisition Act is a statutory benefit which is required to be paid by the collector on his own. There is no question of any adjudication on the said aspect. Representation have been made by the petitioners. The petitioners have filed reference and if Reference Court has granted benefit of section 34 of the Land Acquisition Act to the petitioners then the petitioners will not claim the said benefit again. The petitioners are ready to file undertaking to that effect. According to the learned counsel, even if the reference is filed and pending, this Court can entertain the petitions to the extent of benefit under section 34 of the Land Acquisition Act.

3) Mr. Rajale, Mr. Kanade, the learned counsel for respective respondents submit that, once the reference is filed, it is for the Reference Court to consider the said aspect and this Court would not consider the same in writ jurisdiction under Article 226 of the Constitution of India.

4) The learned counsel for the petitioners as well as the learned counsel for the respondents have placed on record the judgment delivered by this Court in various matters.

4) The amount of benefit under section 34 of the Land Acquisition Act would not be a debatable one. The said benefit can be crystalised. However if the petitioners have already been granted benefit by the Reference Court then certainly the petitioners would not be entitled for the same order from this Court.

5) Considering the above, we pass the following order -

ORDER

A] The Collector shall determine the amount that is benefit under section 34 of the Land Acquisition Act, receivable by the petitioners preferably within six (6) months from the date of this order, of course, after hearing the petitioners and the acquiring body.

B] In case the Reference Court has passed an award in a reference filed by the petitioners and has granted benefit of section 34 of the Land Acquisition Act to the petitioners then the Collector need not enter into the exercise of calculating the said benefit. The parties in that

case would be governed by the award passed by the Reference Court.

C] The parties shall appear before the concerned Collector / SDO that is the competent authority on 07th April, 2015 and in case Collector / SDO is required to determine the amount as per the order of this Court, shall make the payment of the amount determined to the petitioners expeditiously.

D] The Collector/Acquiring Body shall make the payment expeditiously, preferably within a period of six (6) months from the date of decision by it.

6) Writ petitions are accordingly disposed of. In view of disposal of writ petitions civil applications also stand disposed of.

[A. I. S. CHEEMA, J.]

[S. V. GANGAPURWALA, J.]

sam/March. 15