

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

CIVIL REVISION APPLICATION NO. 170 OF 2015

Pandurang Shamrao Patil .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri Sanjay A. Wakure, Advocate for the Petitioner.
Shri S. M. Jahdavi, A. G. P. for Respondent Nos. 1 and 2.
Shri Arvind N. Gaddime, Advocate for the Respondent No. 3.

CORAM : S. V. GANGAPURWALA, J.
DATE : 08TH SEPTEMBER, 2015.

PER COURT :

1. The learned counsel for the petitioner submits that, the reference Court rejected the reference filed by the present petitioner under Section 18, of the Land Acquisition Act, on the ground that, there is no evidence. The respondents also did not file any written statement. According to the learned counsel, the advocate of the claimant could not remain present and also did not intimate the stage of evidence to the present petitioner. As such, the petitioner could not adduce evidence. The learned counsel submits that, even the procedure is not followed by the Reference Court.

2. Mr. Gaddime, the learned counsel for the respondent No. 3 and the learned A. G. P. for respondent Nos. 1 and 2 submits that, in fact, the petitioner ought to have filed appeal. Ample opportunity was given by the Reference Court. The petitioner did not avail the same.

3. There cannot be any dispute with the proposition that, against the award passed by the reference Court under Section 18 of the Land Acquisition Act, remedy is by way of appeal under Section 54 of the said Act.

4. I have perused the roz-nama. The Reference Court after passing no evidence order directly delivered the judgment. Did not fix the case for arguments at any stage and after passing the order of matter to proceed without evidence, directly passed the impugned judgment and award. As the reference Court did not adhere to the procedure and did not fix the matter for evidence of respondents and for arguments, I have entertained the present revision.

5. I have considered the reasons given by the petitioner. It appears that, the petitioner is a age old person, residing in remote rural village. The agricultural land is only source of livelihood has been acquired. Considering the reasons given by the petitioner, I am inclined to grant one more opportunity to the petitioner, so also, respondents will be entitled to an opportunity to file written statement. However, the petitioner would not be entitled for the statutory benefit for the delayed period as is held by the Apex Court in a case of **Ramanlal Deochand Shah V/s State of Maharashtra and Another** reported in **A. I. R. 2013 SC 3452**. In the result I pass the following order-

ORDER

I] The impugned order is quashed and set aside.

II] The parties are relegated before the reference Court.

III] The parties shall appear before the reference Court on 01st October, 2015.

IV] The respondents shall file written statement within a period of one (1) month from the date of appearance.

V] The parties thereafter are entitled to adduce further evidence.

VI] In case, the reference Court comes to the conclusion to enhance compensation amount then, the petitioner would not be entitled for the statutory benefit on the enhanced amount of compensation from 04th December, 2013 till this date.

6. Civil revision application is partly allowed. No costs.

[S. V. GANGAPURWALA, J.]

sam/Sep. 15