

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 13 OF 2015

Ashok Nivrutti Sathe and another .. Petitioners

Vs.

The State of Maharashtra
Through Collector Ahmednagar and anr. .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 3 OF 2015

Ashok Dhondiba Sathe and another .. Petitioners

Vs.

The State of Maharashtra
Through Collector Ahmednagar and anr. .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 4 OF 2015

Govardhan Vithoba Sathe and another .. Petitioners

Vs.

The State of Maharashtra
Through Collector Ahmednagar and anr. .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 5 OF 2015

Bahiru Krishnaji Gawali .. Petitioner

Vs.

The State of Maharashtra
Through Collector Ahmednagar and anr. .. Respondents

**WITH
CIVIL REVISION APPLICATION NO. 6 OF 2015**

Vitthal Bapu Sathe and another .. Petitioners

Vs.

The State of Maharashtra
Through Collector Ahmednagar and anr. .. Respondents

**WITH
CIVIL REVISION APPLICATION NO. 7 OF 2015**

Ashok Shripati Sathe and another .. Petitioners

Vs.

The State of Maharashtra
Through Collector Ahmednagar and anr. .. Respondents

**WITH
CIVIL REVISION APPLICATION NO. 8 OF 2015**

Rajendra Ashok Sathe and another .. Petitioners

Vs.

The State of Maharashtra
Through Collector Ahmednagar and anr. .. Respondents

**WITH
CIVIL REVISION APPLICATION NO. 9 OF 2015**

Maruti Nana Sathe .. Petitioner

Vs.

The State of Maharashtra
Through Collector Ahmednagar and anr. .. Respondents

AND
CIVIL REVISION APPLICATION NO. 10 OF 2015

Chandrabhaga Sonyabapu Sathe

.. Petitioner

Vs.

The State of Maharashtra

Through Collector Ahmednagar and anr.

.. Respondents

Mr. V.P. Latange, Advocate for petitioners in all CRAs

Mr. S.R. Palnitkar, A.G.P. for respondent/State in all CRAs

Mr. D.V. Soman, Advocate for respondent no. 2 in all CRAs

CORAM : M.T. JOSHI, J.

DATE : 15/07/2015

ORAL ORDER :

Heard both sides.

2. While Mr. Soman, learned counsel for the respondent no.2 submits that present revision applications are not tenable in view of the earlier decisions of this Court, Mr. Latange, learned counsel for the revision petitioners relies on the ratio in the cases of *Mukund S/o Bhimrao Kalshetti Vs. State of Maharashtra and anr. 2011(2) Mh.L.J. 849, Gopichand Rangnathrao Nalawade Vs. The State of Maharashtra and*

others (unreported Judgment dated 11/2/2013 of this Court in CRA/23/2013) and Subhash S/o Babulal Rajput Vs. State of Maharashtra and anr. 2012(2) Mh.L.J. 395, etc.

. The present civil revision applications are filed against order of the Civil Judge Senior Division deciding the references under the Land Acquisition Act, without any evidence. In that view of the matter, the revision applications were rejected. Mr. Soman, submits that the reading of the awards would show that reasons were given by the respective learned Civil Judges Senior Division, while rejecting the reference applications and therefore appeals were required.

3. It is, however, clear from the reading of the judgment that the references were rejected for want of evidence. In that view of the matter, the present revision applications would be tenable.

4. In the circumstances, **Rule.** Rule made returnable forthwith.

5. Learned A.G.P. waives notice for respondent no.1 and Mr. Soman waives notice for respondent no.2 in all the Civil Revision Applications.

6. With consent of all the sides, the Civil Revision Applications are heard finally.

7. Learned counsel for the petitioners submits that as the Advocate for the present revision petitioners did not inform about the hearing, no evidence could be led, which ultimately resulted in the dismissal of the reference applications.

8. Mr. Soman submits that the acquiring body cannot be penalized for the breach of duty, if any, of the Advocate of the petitioners and the negligence of the present petitioners, in not being prompt in approaching their Advocate.

9. Considering the fact that substantive claim is in issue, in my view, the present Civil Revision Applications can very well be allowed on the condition that the present revision petitioners would not be entitled for the statutory interest for the delayed

period, in case the learned Civil Judge Senior Division, upon remand of the matters, grants enhancement in the compensation. In the result, the following order:-

10. The Civil Revision Applications are hereby allowed without any order as to costs.

11. The awards of the learned Civil Judge Senior Division are hereby set aside. The cases are remanded to the learned Civil Judge Senior Division. In case, any enhancement is granted by the learned Civil Judge Senior Division upon hearing afresh, the present petitioners would not be entitled for statutory interest on the enhanced amount, if any, from the date of dismissal of the land acquisition reference applications, till the date of their appearance (i.e. till 26-08-2015) before the learned Civil Judge Senior Division.

12. All the parties are directed to appear before the learned Civil Judge Senior Division on 26/08/2015. The learned Civil Judge Senior Division to allow both

the sides to lead evidence and, thereafter to decide the references as per the due procedure of law.

. The learned Civil Judge Senior Division shall take efforts for early decision of the reference applications and preferably shall decide the same, within a period of six (6) months from the date of the appearance of the parties before him.

13. Rule made absolute accordingly.

[M.T. JOSHI]
JUDGE

arp/