

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7013 OF 2015

Shri. Tukaram Chandru Kurale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri. S. A. Rajeshirke, for the Petitioner.

Ms. Aparna Vatkar, AGP for the Respondent Nos.1 to 3.

CORAM : R.M. SAVANT, J.

DATE : 28th AUGUST, 2015

PC.

1. The order dated 05.11.2014 passed by the Learned District Judge-1, Gadhinglaj, District Kolhapur, whereby the Land Acquisition Reference has been dismissed for want of prosecution is taken exception to by way of the above Petition. The reference was sought by the Petitioner against the Award which has been declared long back on 31.03.1998. Though the reference was sought within time, the Petitioner had not deposited the deficit Court fees though directed to do so by the order dated 07.07.2003. Thereafter an order came to be passed on 21.08.2008 which was to the following effect :-

“Claimant absent since long inspite of notice. Court fees not deposited though directed. Hence, claim stands rejected u/o.7 rule 11(c) of the C.P.C.”

A reference was also appeared on board on 12.12.2008 when the following order was passed :-

“Claimant absent since long inspite of notice. Court fees not deposited though directed, hence, claim stands rejected u section 7 rule 11(c) of the C.P.C.”

2. It seems that the Court suo-moto issued notice to the Respondents to the reference on 05.01.2011 and since the Respondents did not appear directed that the reference be proceeded against them. Inspite of the order, since the Petitioner/Claimant did not take steps, the reference Court constrained to pass the following order dismissing the reference for want of prosecution. The said order reads thus :-

“When called applicant, his advocate are absent, no application for adjournment, there is no any provision in Land Reference for condonation of delay in L.A.R., hence application is dismissed for want of prosecution.”

Hence, the record discloses the callous and negligent manner in which the Petitioner is prosecuting the reference proceedings. As indicated above, the Award has been passed as long back as on 19.03.1998. In spite of opportunity, the Petitioner has not taken steps so as to facilitate the adjudication of the reference. A Writ Court obviously cannot aid such a litigant. The Writ Petition is accordingly dismissed. However, if there is any Award of the reference Court enhancing the compensation in respect of the land covered by the same notification as the Petitioner's land, it

would be open for the Petitioner to file an application under Section 28A of the Land Acquisition Act, 1894 and if any such application is filed, needless to state that the same would be considered on its own merits and in accordance with law.

[R.M. SAVANT, J]