

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

**WRIT PETITION NO.7014 OF 2015**

**Mukund Shankar Lad**

**(Since deceased through legal heirs)**

**Smt. Savitribai Mukund Lad**

**(Since deceased through her legal heirs)**

**Shri. Shantaram Mukund Lad and another .. Petitioners**

**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 : 28<sup>th</sup> 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 Petitioners against the Award which has been declared long back on 31.03.1998. Though the reference was sought within time, the Petitioners had not deposited the deficit Court fees. Thereafter an order came to be passed on 12.12.2008 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.”

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, by order dated 21.01.2014 it was directed that the reference be proceeded against them without their say. Since the Petitioner/Claimant did not take steps to pay the deficit Court fees, the reference Court constrained to pass the following order on 05.11.2014 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]**