

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.9688 OF 2015
WRIT PETITION NO.11385 OF 2015
WRIT PETITION NO.11387 OF 2015
WRIT PETITION NO.9422 OF 2015
WRIT PETITION NO.11386 OF 2015
WRIT PETITION NO.8971 OF 2015
WRIT PETITION NO.8972 OF 2015
WRIT PETITION NO.8973 OF 2015
WRIT PETITION NO.8974 OF 2015
WRIT PETITION NO.8976 OF 2015

WP NO.9688 OF 2015

Basavraj Amogi Kuskale.	..	Petitioner
Vs		
State of Maharashtra and Others.	..	Respondents
—		

WP NO.11385 OF 2015

Satyappa Bhivji Patil	..	Petitioner
Vs		
State of Maharashtra and Others.	..	Respondents
—		

WP NO.11387 OF 2015

Amogsidhadev Vahiwardar		
Amisdhappa Madappa Wadre.	..	Petitioner
Vs		
State of Maharashtra and Others.	..	Respondents
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WP NO.9422 OF 2015

Amogi Sidhappa Kuskale,
Since deceased through heirs:

1a. Gurappa Amogi Kusgale and Others.	..	Petitioners
Vs		
State of Maharashtra and Others.	..	Respondents
—		

WP NO.11386 OF 2015

Shivappa Madappa Patil,
Since deceased through heirs:

1a. Smt. Saraswati Shivappa Patil and Others.	..	Petitioners
Vs		
State of Maharashtra and Others.	..	Respondents
—		

WP NO.8971 OF 2015

Shri Laxman Hanmant Mahar.	..	Petitioner
Vs		
State of Maharashtra and Another.	..	Respondents
—		

WP NO.8972 OF 2015

Chandrashekhar Irappa Umadi,
Since deceased through heirs:

1A. Smt. Sharnama C. Umadi and Others.	..	Respondents
Vs.		
State of Maharashtra and Others.	..	Respondents
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WP NO.8973 OF 2015

Shri Bhimashankar C. Dandoti.	..	Petitioner
Vs		
State of Maharashtra and Another.	..	Respondents
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WP NO.8974 OF 2015

Shri Chandrakant B. Dandoti. .. Petitioner
Vs
State of Maharashtra and Another. .. Respondents
—

WP NO.8976 OF 2015

Smt. Subavva H. Mahar & Others. .. Petitioners
Vs
State of Maharashtra and Another. .. Respondents
—

Ms. Chaitrali Deshmukh i/b Shri Rajshekhar S. Alange for the
Petitioners.
Shri V.P. Malvankar, AGP “A” Panel for the Respondents.
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CORAM : A.S. OKA & G.S. PATEL, JJ
DATED : 20TH NOVEMBER 2015

ORAL JUDGMENT : (PER A.S.OKA, J)

. Heard the learned counsel appearing for the Petitioners and
the learned AGP for the Respondents.

2. Considering the narrow controversy involved, these
Petitions are forthwith taken up for final disposal. Considering the
order which we are proposing to pass, the service of the Court notice on
the fourth Respondent is dispensed with.

3. The impugned orders in this group of Petitions are identical. Only difference is that in the first five matters, the date of the impugned order is 3rd April 2013 and in the remaining matters, the impugned order is of 29th April 2015.

4. The impugned orders have been passed on the Applications made by the Petitioners under Sub-section (1) of Section 28A of the Land Acquisition Act, 1894 (for short “the Land Acquisition Act”). By the impugned orders, the Applications made by the Petitioners have been rejected not on merits but on the ground of the failure to make procedural compliance.

5. The Applications under Sub-section (1) of Section 28A of the Land Acquisition Act seeking re-determination of the compensation were based on an award made in a Reference under Section 18 of the Land Acquisition Act. The said award was made on the basis of the settlement arrived at before a Maha Lok Adalat. The Applications made by the Petitioners have been rejected on the ground of failure of the Petitioners to produce the following documents.

- (i) A copy of the Notification published in the Government Gazette under Sub-section (1) of Section 4 of the Land Acquisition Act, 1894;

- (ii) A copy of the Notification published in the Government Gazette under Section 6 of the Land Acquisition Act, 1894;
- (iii) A copy of the decision, if any, taken by the State Government to prefer an Appeal against the award under Section 18 of the Land Acquisition Act on the basis of which the Applications have been made;
- (iv) An affidavit/indemnity recording that the Applicants have not applied for a reference under Section 18 of the Land Acquisition Act, 1894; and
- (v) The particulars of the settlement arrived at before the Maha Lok Adalat.

6. The issue of requirement of production of such documents as a condition precedent for entertaining an Application under Sub-section (1) of Section 28A of the Land Acquisition Act is no longer res integra. By the judgment and order dated 29th November 2013 passed in Writ Petition Nos.9666 of 2013 and 9667 of 2013, the said issue has been decided. This Court in Paragraphs 10 and 11 has held that the

requisition for the production of the aforesaid documents is completely contrary to the scheme of Sub-section (1) of Section 28A of the Land Acquisition Act save and except the certified copies of the award made in the Reference under Section 18 of the Land Acquisition Act, 1894 in terms of the settlement in Maha Lok Adalat on the basis of which the redetermination of the compensation is sought.

7. Therefore, the impugned orders cannot be sustained and the same are set aside by passing the following order.

ORDER :

- (a) The impugned orders dated 3rd April 2013 and 29th April 2015 are quashed and set aside. We, however, make it clear that the Petitioners are under an obligation to produce a certified copy of the award in a Reference under Section 18 of the Land Acquisition Act, 1894 on the basis of which an Application for redetermination of compensation is made by them. No other compliance with the requisitions which are set out in Paragraph 5 above can be insisted upon;
- (b) We make it clear that in the facts and circumstances of the cases in hand, as there was a settlement

arrived at before the Maha Lok Adalat, the Petitioners shall produce a true copy of the settlement before the Deputy Collector, Land Acquisition No.11, within a period of eight weeks from today. A certified copy of the Award made by the Reference Court in terms of the settlement shall be also produced within the aforesaid period;

- (c) On production of the aforesaid documents within the stipulated time, the Applications made by the Petitioners under Section 28A of the Land Acquisition Act shall be processed and decided in accordance with law;
- (d) The Rule in aforesaid Petitions is made absolute on above terms.

(G.S. PATEL, J)

(A.S. OKA, J)