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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10591 OF 2014

Smt. Bhagubai Davalu Bhoye

...Petitioner

V/s.

State of Maharashtra & Ors.

...Respondents

**WITH
WRIT PETITION NO.10590 OF 2014
WITH
WRIT PETITION NO.10585 OF 2014
WITH
WRIT PETITION NO.10586 OF 2014
WITH
WRIT PETITION NO.10587 OF 2014
WITH
WRIT PETITION NO.10588 OF 2014
WITH
WRIT PETITION NO.10589 OF 2014
WITH
WRIT PETITION NO.10592 OF 2014
WITH
WRIT PETITION NO.10593 OF 2014
WITH
WRIT PETITION NO.10594 OF 2014**

.....

Mr. Sanjay A. Ghaisas for the Petitioner.

Mr. S. D. Rayarikar, AGP, for Respondent Nos.1 to 3.

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CORAM : A. K. MENON, J.

DATE : 12TH OCTOBER, 2015.

PC.:

Rule. Rule is made returnable forthwith. By consent, taken up for final hearing at the stage of admission.

2] These group of petitions raise a common issue viz. liability of a person challenging the order of acquisition of land to pay Court fees on an application seeking a reference under Section 18 of the Land Acquisition Act. It is the case of petitioners that the petitioners had objected to the acquisition and the compensation fixed by the Special Land Acquisition Officer vide common award dated 28th July, 2009 copy of which appears at Exhibit A to the Petition. Applications seeking references under Section 18 came to be rejected by 10 separate orders dated 29th December, 2013 copy of one of these orders appears at Exhibit C to the present Petition. The impugned orders are in a standard form the only difference being the fact that the Gat numbers and description of the property and the names of the applicant and the amounts are separately mentioned in each of the impugned orders.

3] Mr. Ghaisas, the learned counsel for the petitioner submits that apart from being Adivasis and being exempt from payment of costs the applicants are challenging the orders of acquisition and the compensation payable and as such no Court fee was required to be paid in these cases. Learned counsel also relies upon a decision of this Court in the case of *Lalbahadur Ram Yadav & Others V/s. State of Maharashtra & Others reported in AIR 2004 Bombay 410* wherein it is clearly mentioned that in all such cases where a reference is sought to be made

challenging the acquisition, the person aggrieved is not required under law to make payment of Court fees on the application.

4] Having perused the record and having heard the learned counsel for the parties, the impugned orders cannot stand and the same are liable to be quashed. This is a fit case where the Deputy Collector (Land Acquisition) – respondent no.2 can be directed to make references to the District Court Nashik. Accordingly, I pass the following order:-

- i) Rule is made absolute in terms of prayer clause (a).
- ii) The impugned order and judgment dated 29th December, 2013 passed by respondent no.2 in each of the above Petition is set aside.
- iii) The respondent no.2 shall make a reference to the District Court, Nashik as prayed by the applicant within a period of six weeks from today.
- iv) The counsel for the respondent is directed to communicate this order to the concerned authorities forthwith.
- v) There will be no orders as to costs.

(A. K. MENON, J.)