

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4411 OF 2016

Laxman S/o. Gangaram Holbole,
Since Dead Through L. Rs.,
Rameshwar S/o. Laxman Holbole
and another .. Petitioners

Versus

The State of Maharashtra through
District Collector Beed and others .. Respondents

Shri Ramraje A. Deshmukh, Advocate for Petitioners.
Shri S. P. Sonpawale, A.G.P. for Respondent Nos. 1 and 2.
Shri A. D. Aghav, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.**

DATE : 16TH APRIL, 2016.

PER COURT :

. Issue notice to respondents. The learned A. G. P. waives notice for respondent Nos. 1 and 2. The learned counsel waives notice for the Respondent No. 3. With the consent of parties taken up for final hearing.

2. We have heard the learned counsel for petitioners and respondents. The petitioners had filed Reference U/Sec. 18 of the Land Acquisition Act (for short "L. A. Act") with the respondent No. 2 in the year 1996. The same was received by the office of the respondent No. 2 on 06.01.2003. The respondent/Authority

rejected it on the ground that Court fees is not paid. The petitioners are communicated this fact vide letter dated 10th March, 2014. According to the petitioners, the Authority could not have dismissed the Reference on non payment of Court fees. It ought to have been referred the same to the Court and the petitioners could have complied the order. The learned counsel for petitioners on instructions states that, the petitioners would not claim statutory benefit for the period from 2003 till date, in case, the Court grants enhancement of compensation.

3. The learned A. G. P. and the learned counsel for the respondent No. 3 submit that, after filing of the Reference in 1996 no steps were taken by petitioners for payment of the Court fees. The order is rightly passed.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. On going through the documents placed on record, it does not transpire that, the Authority at any point of time had given notice to petitioners for payment of Court fees and also the factum of the Reference not being forwarded to the Court on account of non payment of Court fees and the same is communicated on 10th March, 2014. There is nothing on record to suggest that, prior to said date the petitioners were communicated the order passed by the authority on 06.01.2003 of

rejecting the Reference on account of non payment of Court fees.

4. Be that as it may, it was also duty of the petitioners to pay Court fees and to get knowledge as to the stage of Reference being filed. The petitioners have also failed in their duty in that regard. It is trite that the Collector/respondent authority ought to have referred the Reference received to the Court and the petitioners can be allowed to pay the Court fees subsequently also.

5. Considering the above, we pass the following order.

6. The impugned order is quashed and set aside. The petitioners shall pay the Court fees within a period of three weeks from today. In case, the Court fee is paid within a period of three (03) weeks from today the respondent/authority shall refer the said Reference to the Court. Of course, if there is no other legal impediment. In case, the Reference Court awards enhanced compensation, then the petitioners have waived statutory benefits as provided under the statute from 06.01.2003 till 30th April, 2016. The writ petition is disposed of. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]