

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

WRIT PETITION NO. 9116 OF 2015

Kashibai Vithalrao Nikam,
Age : 80 Years, Occu. : Agril.,
R/o Deoulgaon, Tq. Shrigonda,
Dist. Ahmednagar. .. Petitioner

Versus

1. The State of Maharashtra,
(Through Collector, Ahmednagar).
2. The Special Land Acquisition
Office No. 14, Ahmednagar,
Ahmednagar. .. Respondents

Shri Mahesh R. Sonwane, Advocate for the Petitioner.
Shri S. G. Karlekar, A.G.P. for Respondent Nos.1 and 2.

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.**

DATE : 20TH JANUARY, 2016.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. The learned counsel for the petitioner seeks leave to amend the petition. Leave granted.

2. Rule. Rule made returnable forthwith. The learned A. G. P. waives notice of rule for respondents. Taken up for final hearing with the consent of parties.

3. It is the case of the petitioner that, the petitioner had filed reference before the Collector U/Sec. 18 of the Land Acquisition Act (for short "L. A. Act") on 16.03.2001. The Collector did not refer it to the District Court as contemplated U/Sec. 18 of the L. A. Act. The learned counsel submits that the petitioner did not receive any intimation from the Collector office for payment of necessary stamp duty. The reference of the petitioner made U/Sec. 18 of the L. A. Act be referred to the District Court.

4. The learned Assistant Government Pleader submits that, on 16.03.2001 the reference was filed by the petitioner, however, adequate stamp duty was not affixed. The said fact was intimated to the petitioner and thereafter same was disposed of by the respondent No. 2 on 02.03.2002. The learned A. G. P. submits that, after such a long slumber the order need not be interfered with.

5. It is well settled that, the defect about the non payment of adequate court fees can be cured subsequently. The Collector ought to have referred the said reference to the District Court and further orders could have been passed by the District Court. It appears that, the intimation as allegedly given by respondents is not received by the petitioner. The petitioner can be put to the terms to adjust the equities as the petitioner also was negligent all these years from getting the knowledge about the reference

filed by her.

6. In the light of the above, the order dated 02.03.2002 passed by the respondent No. 2 is quashed and set aside. The petitioner shall pay adequate stamp duty within a period of four (4) weeks from today. Upon payment of said stamp duty, the Collector shall refer the said reference to the District Court. It is made clear that, in case the reference is allowed by the Court, then the petitioner would not be entitled for the statutory benefits U/Sec. 34 and 28 of the L. A. Act from 02.03.2002 till 21.08.2015. The present order shall also be forwarded by respondents to the concerned Court.

Rule accordingly made absolute in above terms. No costs.

Sd/-

[A. M. BADAR, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/Jan. 16