

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

28 WRIT PETITION NO. 880 OF 2015

**RAOSAHEB MURLIDHAR GONDKAR AND ANOTHER
VERSUS**

**THE STATE OF MAHARASHTRA AND OTHERS
WITH**

WRIT PETITION NO. 885 OF 2015

**MAHESH JAGGANATH MENDU (MEDU)
VERSUS**

**THE STATE OF MAHARASHTRA AND OTHERS
WITH**

WRIT PETITION NO. 886 OF 2015

**GANPAT S/O NARAYAN WAKCHOURE (DECEASED THROUGH LRS) AND
ANOTHER**

**VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mr. Kiran M. Nagarkar

AGP for Respondents State: Mr. S. N. Kendre

Advocate for Respondent No.3 : Mr. A. V. Hon

Advocate for respondent No.4: Mr. N. R. Bhavar

CORAM : V. K. JADHAV, J.

DATE : 6th January, 2016

PER COURT :

1. In all these writ petitions, the petitioners are challenging the impugned orders dated 16.06.2014 and 02.09.2014 in LAR Nos. 19/2013, 26/2013 and 28/2013 passed by the learned Civil Judge, Senior Division, Kopergaon, thereby forfeiting their opportunity of adducing evidence.

2. Learned counsel for the petitioners submits that

the petitioners are agriculturists. Date 16.06.2014 was fixed for adducing evidence and on that date, due to some difficulties, the petitioners could not adduce evidence before the trial Court. The learned counsel further submits that the matters pertain to enhancement of compensation awarded by the Land Acquisition Officer and in view of this, if right to adduce evidence is forfeited, the petitions filed by the petitioners/claimants under the Land Acquisition Act would be meaningless.

3. Learned counsel for the respondents opposed the prayers with submission that even though opportunity was given to the petitioners, the petitioners have not adduced evidence before the trial Court.

4. In response to the order passed by this Court dated 10.04.2015, the petitioners in each case have deposited an amount of Rs.7,500/- to show their bona fides. Furthermore, learned counsel for the petitioners submits that on the date of appearance before the trial Court or on subsequent first date thereafter, the petitioners are ready to adduce evidence before the Court.

5. It appears that the petitioners have been given several opportunities to adduce evidence but ultimately their right to adduce evidence came to be forfeited. Even the petitioners failed to deposit the costs. Subsequently, the petitioners have deposited the costs, however, the cost was accepted on the condition that on the same day, the petitioners should adduce evidence.

However, the same was not practically possible. Thus, by imposing certain costs, the impugned orders dated 16.06.2014 and 02.09.2014 passed in LAR Nos. 19/2013, 26/2013 and 28/2013 can be quashed and set aside with certain directions. Hence, following order:

O R D E R

- i. The impugned orders dated 16.06.2014 and 02.09.2014 passed in LAR Nos. 19/2013, 26/2013 and 28/2013 passed by the learned Civil Judge, Senior Division, Kopargaon, are hereby quashed and set aside.
 - ii. The petitioners shall appear before the trial Court on 19.03.2016 and adduce evidence, if any, on the same day, subject to costs of Rs.1000/- each.
 - iii. The costs shall be deposited with the trial Court on the date of first appearance itself.
 - iv. The amount deposited by the petitioners in this Court shall be refunded to them.
6. Writ petitions are disposed of in terms of the above order.

(V. K. JADHAV, J.)

JPC