

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11764 of 2015

Shri Mahadeo Harishchandra Dhavale
and Others.

.. Petitioners

Vs

State of Maharashtra and Others.

.. Respondents

—

Shri Sandeep M. Phatak for the Petitioners.

Mrs. M.P. Thakur, AGP for the Respondent Nos.1 to 3.s

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CORAM : A.S. OKA & C.V. BHADANG, JJ

DATED : 13TH JANUARY 2016

P.C.

1. Heard learned counsel for the Petitioners. The Petitioners (who are total 36 in number) claim that on 19th April 1991 and 14th July 1986, several Applications were filed under sub-section (3) of Section 28-A and Section 18 of Land Acquisition Act, 1894 (for short “the said Act”). The Petitioners have an office copy of only one such Application.

2. The grievance in this Petition under Article 226 of the Constitution of India is that no orders have been passed on the said Applications allegedly made on 19th April 1991 and 14th July 1986. It is not even stated as to how many Applications were made and by whom. The second prayer in the Petition is for directing an enquiry

against the Land Acquisition Officer for not referring the matters to the Court.

3. Learned counsel appearing for the Petitioners submits that the Petitioners will be in a position to produce the material to show that the Applications were made. He submitted that the Petitioners may be provided with inspection of the record of the Office of the fourth Respondent.

4. We have considered the submission. A claim made in this Petition which is filed in February 2014 that the Petitioners made Applications on 19th April 1991 and 14th July 1986 under Sub-section (3) of Section 28A of the said Act. It is not even stated as to how many Applications were made.

5. Learned counsel appearing for the Petitioners, at this stage, submits that there is an acknowledgment of the Applications which is annexed at Exhibit-B to the Petition. We have perused the document at Exhibit-B very carefully. We find that the handwritten portion in the left margin has been struck out by white ink. Moreover, the said Exhibit-B contains names of 128 claimants and the date of the so called acknowledgment is 19th April 1991. As stated earlier, there are total 36 Petitioners.

6. Even if it is presumed that the Applications were made by the Petitioners as alleged on 19th April 1991 and 14th July 1986, for the first time, as late as on 18th January 2010, an Advocate made an Application to the fourth respondent in which it is alleged that he has filed Vakalatnama in June 2009 in 30 Applications filed under Sections 18 and 28A of the said Act and in January 2010, he filed Vakalatnama in such 128 Applications. The Application is very vague. In the said Application, the names of none of the Petitioners have been mentioned. The same Advocate made Applications on 8th February 2010 and 14th March 2011 to the fourth Respondent. Thereafter, Applications were made by him on 11th February 2011, 6th April 2011 and 8th April 2011. In the Application dated 11th February 2011, he has made a reference to nine names and he has stated that he is filing Vakalatnama for the said nine persons. Therefore, it is impossible to record a finding that the Applications made by the Advocate from January 2010 to April 2011 are in relation to the Applications allegedly filed by the present Petitioners under Sub-section (3) of Section 28A of the said Act on 19th April 1991 and 14th July 1986.

7. Firstly, there is a complete inaction on the part of the Petitioners till the letter dated 16th January 2010 was submitted by the Advocate provided it relates to the cases of the Petitioners. Moreover,

after making last Application on 8th April 2011, the Petitioners have waited for three more years to file Writ Petition.

8. Hence, Writ Petition suffers from gross delay which is not at all explained. Considering the conduct of the Petitioners, this is not a case where the Petitioners should be allowed to invoke the writ jurisdiction under Article 226 of the Constitution of India. Accordingly, the Petition is rejected.

(C.V. BHADANG, J)

(A.S. OKA, J)