

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.2509 OF 2015

Ashok Vishwambharrao Jadhav,
died, through L.Rs:

1. Chabubai Ashok Jadhav
age 50 years, occ. Household
2. Santosh Ashok Jadhav
age 28 years, occ. Labour
3. Sachin Ashok Jadhav
age 26 years, occ. Labour

All r/o Sastur Tq. Omerga
Dist. Osmanabad
At present Pune
Through G.P.A. Hlder
Nagnath Nivrutti Londhe
age 62 years, occ. Retired
r/o Trimurti Niwas,
Opposite Chaunda Hospital
Vishal Nagar
Tq. & Dist. Latur

Petitioners

Versus

The State of Maharashtra
Through Collector, Osmanabad

Respondent

Mr.P.A.Bhosale, advocate holding for Mr.A.B.Kale, advocate for the
petitioners.
Mr.S.B.Pulkundwar, A.G.P. for the Respondent.

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CORAM : S.B.SHUKRE, J.

DATE : 14th FEBRUARY, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Heard finally by consent of learned counsel for the respective parties.
3. On going through the impugned order dated 28th November, 2012, it is clearly seen that it is based upon mis-conception of facts. By the impugned order, only delay was condoned which had occurred in filing application being Misc. Application No. 26/2011 seeking restoration of the application being Misc. Application No. 33/2004, dismissed in default on 29th March, 2006.
4. By Misc. Application No. 33/2004, what was sought was recalling of order of disposition of Land Acquisition Reference No. 209/1990 done on 6th December, 1997, on the ground that it could not have been disposed of by the reference Court for want of absence of the applicant in view of law laid down by the Honourable Apex Court in the matter of Khazan Singh (dead) by L.Rs Vs. Union of India **AIR 2002 Supreme Court 726**. By this order, the learned Judge has even rejected Misc. Application No. 33/2004 by completely ignoring the facts of the case. Therefore, the impugned order is perverse and it deserves to be quashed and set aside.
5. Impugned order is accordingly quashed and set aside. It is directed that Misc. Application No. 26/2011 shall be decided by the reference Court, in accordance with law, in one month from the

date of receipt of writ by the Court. Writ petition is allowed. Rule made absolute in above terms. No costs.

S.B.SHUKRE
JUDGE

dyb