

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

WRIT PETITION NO. 7739 OF 2017

Shashikant Hanumant Mahamuni,  
Age. 62 years, Occu. Agricultural,  
R/o. Kalnimbala, Tq. Omerga,  
Dist. Osmanabad.

...Petitioner.

Versus

1. The State of Maharashtra.
2. Special Land Acquisition Officer,  
Manjara Project, Osmanabad,  
Tq. & Dist. Osmanabad.
3. The Executive Engineer,  
Irrigation Project Strengthening  
Division, Omerga, Dist. Osmanabad. ...Respondents.

Advocate for Petitioner : Shri M.U. Shelke.  
AGP for Respondent Nos. 1 to 3 : Shri S.K. Tambe.

CORAM : RAVINDRA V. GHUGE, J.

Dated : 14<sup>th</sup> September, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner is aggrieved by the order dated 08/08/2011, by which, the Deputy Collector Land Acquisition, Manjara Project, has disposed of the proceedings No. 2006/BS/LAR/CR/72, filed by the petitioner on account of failure to deposit the Court fees.

3. The learned counsel for the petitioner submits that on 01/10/2013, he had deposited an amount of Rs. 16215/-, as stamp duty, through his advocate before the Special Land Acquisition and as such his proceedings should have been restored. It was through an application dated 01/10/2013, also signed by his advocate that the stamp duty was deposited. As, the said proceedings were not restored, he was constrained to move this Court.

4. He, further, submits that the copies of the Indian Court fee stamp paper are also placed on record to indicate that the said stamp duty has been paid.

5. The petitioner relies upon the judgment of this Court (Coram : Sunil P. Deshmukh, J.) dated 31/08/2017 in Writ Petition No. 3817/2016, by which, this Court has entertained a similar Petition and by condoning the delay, directed restoration of the LAR proceedings.

6. The learned AGP, appearing on behalf of all the respondents has strenuously submitted that the petitioner himself is a cause of his miseries. He could have avoided the said situation by depositing the requisite Court fees within time. His proceedings were filed on 25/07/2006, without depositing the necessary fees. The proceedings were disposed of on 08/08/2011. Even thereafter, the petitioner was

sleeping over his rights and eventually appears to have deposited the fees on 01/10/2013, when no proceedings were pending before the competent authority. The said exercise was, therefore, futile.

7. He, further, submits that if this Court is inclined to restore the LAR proceedings, the petitioner should be deprived of the interest component and the ancillary component of payment with reference to the enhanced compensation from July, 2006 till the passing of the order.

8. Having considered the submissions of the learned advocates for the respective sides, I find that the petitioner, who is an agriculturist, cannot be made to suffer the dismissal of his proceedings as he has already lost his land in the compulsory acquisition for the Manjara project. At the same time, he cannot gain any advantage for the delay caused, as the compensation is to be paid through the tax payers money.

9. I have considered the view taken by the Hon'ble Apex Court in the following judgments :

1. Collector, Land Acquisition, Anantnag Versus Mst. Katiji [AIR 1987 SC 1353] and
2. Esha Bhattacharji Versus Managing Committee of Raghunathpur Nafar

Academy, [(2013) 12 SCC 649].

10. Considering the above, this petition is allowed. LAR No. 6826/2006 is restored to the file of the competent authority / respondent No. 1. The litigating sides shall appear before the said authority on 29/09/2017 at 11.00 a.m.

11. Respondent No. 1 may note that the petitioner / original claimant would not claim any interest amount on the enhanced amount of compensation and similar components of payment for the period 08/11/2011 till the passing of this order, today.

12. Rule is made partly absolute.

( RAVINDRA V. GHUGE, J. )

S.P.C.