

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

BENCH AT AURANGABAD.

WRIT PETITION NO.8874 OF 2016

Vijaysing S/o Nathesing
Rajput ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...
Mr.B.R.Waramaa, advocate for the petitioner.
Mr.P.S.Patil, Additional Government Pleader for
the State.

...

**CORAM : S.V.GANGAPURWALA AND
S.M.GAVHANE, JJ.**

Date : 09.10.2017.

PER COURT :

1. Mr.Waramaa, learned counsel submits that petitioner had filed application U/s 28-A of the Land Acquisition Act. The same was decided on 27.7.2015. The petitioner was not satisfied with the order passed, as such petitioner filed application U/s 28-A(3) for referring the same to the Civil Court. Under order dated 9.12.2015, the

Deputy Collector, Land Acquisition, temporarily disposed of the said application on the ground that the appeal against the order of the Reference Court pursuant to which application U/s 28-A was filed is still pending. Mr.Waramaa, learned counsel submits that the said appeals are disposed of on 11.3.2016.

2. We have heard learned Additional Government Pleader.

3. The petitioner has relied on the judgment of the Apex Court in the case of **"V.Ramakrishna Rao Vs. Singareni Collieries Company Ltd. and another"** reported in **2010 (10) SCC 650**.

4. The facts narrated above with regard to the dates are not disputed. The Deputy Collector, Land Acquisition ought not to have disposed of the application U/s 28-A(3) of the Land Acquisition Act. He ought to have referred the said application as a Reference to the Court for determination as provided U/s 28-A(3) of the

Land Acquisition Act. Section 28-A(3) of the Land Acquisition Act reads thus :

"28A (1) x x x x

28A (2) x x x x

28A (3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to reference under section 18."

5. It is further submitted that the appeals against the award of the Reference Court are also disposed of.

6. Considering above, the impugned order dated 9.12.2015 (Exh.G) is quashed and set aside. The Deputy Collector, Land Acquisition (Respondent No.3) shall in case there is no other

impediment shall forward the said application to the Court as required U/s 28A(3) of the Land Acquisition Act, expeditiously, preferably within three (3) months.

7. The Writ Petition is accordingly disposed of. No costs.

(S.M.GAVHANE, J.)

(S.V.GANGAPURWALA, J.)

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