

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

WRIT PETITION NO. 223 OF 2016

Mathurabai Dyanoba Gatkai Died
through L.Rs. Ramkrishna Dnyanoba
Gatkai .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri A. S. More, Advocate for the Petitioner.
Shri V. S. Badakh, A.G.P. for Respondent Nos. 1 and 3.
None appears for the Respondent No. 2.

CORAM : S. V. GANGAPURWALA , J.

DATE : 21ST APRIL, 2017.

PER COURT :

. Mr. More, the learned counsel for the petitioner submits that reference filed U/Sec. 28 of the Land Acquisition Act (for short "L. A. Act") has been dismissed only on the ground that the mother of the petitioner had filed reference U/Sec. 18 of the L. A. Act and the same is dismissed. The learned counsel submits that, though said reference is dismissed on technical ground, in fact, it is dismissed for non prosecution. If the reference U/Sec. 18 of the L. A. Act is dismissed on technical ground, then reference U/Sec. 28-A of the L. A. Act is maintainable. The learned counsel relies on the judgment of the Apex Court in a

case of State of Tripura and another Vs. Roop Chand Das and others reported in (2002) 7 SCC 273.

2. I have also heard the learned Assistant Government Pleader for respondent Nos. 1 and 3.

3. The Reference U/Sec. 18 of the L. A. Act is dismissed, as the petitioner could not prove that the compensation awarded under the award is inadequate and not fair compensation. The petitioner failed to adduce evidence in the said reference U/Sec. 18 of the L. A. Act, as such it cannot be said that the reference is dismissed on technical ground. The judgment of the Apex Court in a case of State of Tripura and another Vs. Roop Chand Das and others referred to supra would not inure to the benefit of the petitioner. In view of that, no case for interference is made out. The writ petition is dismissed. No costs.

4. The petitioner may assail the order dated 22.08.2011 passed in L.A.R. No. 205 of 1998 as may be permissible in law.

[S. V. GANGAPURWALA, J.]