

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9768 OF 2015

Ganpat Shamrao Aglave (since deceased
through his LR Shri Sajjan Ganpat Aglave. ... Petitioner.

V/s.

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

Vijaykumar Garad for the petitioner.
PP.Kakade, AGP for the State.

**CORAM : DR.MANJULA CHELLUR, C.J.
AND G.S.KULKARNI , J.**

DATE : 29th March 2017.

PC. :

Heard learned counsel for the petitioner and we have gone through the affidavit filed by the Deputy Collector (Land Acquisition) contending that the application filed by the petitioner under section 28A of the Land Acquisition Act, 1894 was beyond the period of limitation as contemplated under the Act. Section 28A came to be included in the aforesaid enactment with effect from 24th September 1984 enabling the owners of the land to seek enhanced compensation even if they were unable to file reference application under section 18 of the Act seeking higher compensation. Therefore,

whenever higher compensation came to be awarded in terms of award of Civil Court in respect of other lands falling under the same notification irrespective of not filing section 18 application, the provision came to be made that under section 28A the land loser can approach the Land Acquisition Officer seeking similar higher compensation awarded to other land losers whose lands were acquired under the said notification.

2. In order to accommodate and facilitate the land losers, three months time is fixed to make an application under section 28A of the said Act. Proviso to the said section clearly indicates that while computing the period of three months, the day on which the award was pronounced and the time required for obtaining a copy of the award shall be excluded. The award on which the petitioner relies upon is dated 10th July 2007. He approached the Land Acquisition Officer under section 28A on 24th October 2007. He made an application to obtain a copy of the order dated 10th July 2007 on 28th September 2007 and the certified copy of the order was delivered to him on 19th October 2007. In terms of section 28A, the petitioner's submission is that the period from 28th September 2007 to 19th October 2007 has to be deducted in addition to one day i.e. 10th July 2007 i.e. the date of the award passed in another application for compensation. In that view of the matter, if the application under section 28A is filed on 24th October 2007 and if the

period required for obtaining certified copy of the order is to be deducted, one has to opine that the application was well within the time frame in terms of the statute.

3. Therefore, the impugned order deserves to be quashed as is accordingly quashed. We direct the Land Acquisition Officer to entertain the application filed by the petitioner on 24th October 2007 and dispose of the same strictly in accordance with the procedure contemplated, since the application is filed in time. Writ petition is disposed of accordingly.

(G.S.KULKARNI, J.)

CHIEF JUSTICE