

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 773 OF 2016

Shri Nikhilgir Arvindgir Gosavi. ... Petitioner.
V/s.
The State of Maharashtra and others. ... Respondents.

Ajay A. Joshi for the petitioner.
Mrs.S.S.Bhende, AGP for the State.

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

DATE : 31st January 2017.

PC. :

The petitioner before this Court is claiming to be the legal representative of the original owner of the land, which is already acquired, i.e. Smt.Yamunabai Gosavi. According to the petitioner, an award came to be passed by the respondent authority on 9th December 1996. However, prior to that, in February 1996, Yamunabai, the grandmother of the petitioner, who was contesting the acquisition proceeding, died and the said proceeding was continued by the father of the petitioner- Shri Arvindgir Gosavi. On 4th April 1997, a reference seems to have been made under section

18 of the Land Acquisition Act, 1894 ("said Act" for short) by the legal representative of deceased Yamunabai.

2. As a matter of fact, apart from family of Smt.Yamunabai, collateral family of Shri Basweshgir Gosavi was also the owner of some part of Survey No.109. The entire land belonging to the family of the petitioner as also their senior cousin- Shri Basweshgir Gosavi was acquired. So far as the branch of the petitioner, the petitioner claims his descendency from Basweshgir. Totally, there were six references from this family, filed on 4th April 1997. Out of this, two were filed by Shri Arvindgir B. Gosavi, family of the petitioner. The reference, which was filed by Shri Arvindgir Gosavi in his individual capacity is already disposed of. So far as reference filed by him in the capacity of legal representative of Smt.Yamunabai Gosavi, it is still pending with the Collector and is not sent to the Reference Court for consideration under section 18 of the said Act. Apparently, the other references, which were rejected for nonpayment of court fees, came to be set right by this Court by referring to the earlier decision of the Supreme Court in the case of *Kashiram Namdeo Zambro v. State of Maharashtra* reported in (1996) 1 SCC 289 as also the decisions of this Court which followed the decision of the Supreme Court.

3. However, we are not concerned with that issue because

the reference filed by Shri Arvindgir Gosavi representing the share of Smt.Yamunabai was never sent to the Reference Court. In these circumstances, we direct the respondent- Collector or the concerned authority to send the reference filed by Shri Arvindgir Gosavi, father of the petitioner, claiming benefits arising out of reference of Smt.Yamunabai, to the Reference Court within one month from today.

4. Writ petition is disposed of accordingly.

(G.S.KULKARNI, J.)

CHIEF JUSTICE