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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.162 OF 2017

Indrajit s/o Balwantrao Patil
Died through his LRs

APPLICANT

- A. Vinayak s/o Indrajit Patil,
Age - 45 years, Occ - Labour
 - B. Uttambai w/o Bhaskar Wankhede
Age - 48 years, Occ - Household
 - C. Vilas s/o Indrajit Patil
Age - 42 years, Occ - Labour
- All R/o Kolsur, Taluka - Omerga
District - Osmanabad

VERSUS

- 1. The State of Maharashtra
Through the Collector,
Osmanabad
 - 2. The Special Land Acquisition Officer
Krishna Khore, Osmanabad
District - Osmanabad
 - 3. Executive Engineer,
Krishna Khore Development Valley,
Omerga, Taluka - Omerga
District - Osmanabad
- RESPONDENTS

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Mr. Santosh B. Gastgar, Advocate for the applicants
Mr. S. N. Kendre, AGP for respondent - State

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 8th OCTOBER, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard learned advocates for appearing parties finally by consent.

2. Indisputably, land of about 67 *Are* had been acquired from applicants' father. After receiving award amount, their father had filed land acquisition reference bearing No. 868 of 2005 (old No. 393 of 2001). The same had been pending before the reference court for quite a long time. The land acquisition reference had been rejected under order dated 19th January, 2008 for proceedings were not attended to and for want of evidence.

3. Applicants have contended that their father died during pendency of land acquisition reference proceedings, on 2nd October 2004. It is being referred to that due to acquisition of land, they had to move to a different place and were not aware about pendency of land acquisition reference preferred by their father. However, it was realized by them around the time this civil revision application has been filed in 2017, through an old acquaintance and that land acquisition references filed by other agriculturists had been allowed. It is in these circumstances, revision application had been filed for setting aside order passed

by the reference court, dismissing the reference filed by their father. Delay has been condoned by this court earlier. Learned advocate for the applicants on instructions further states that the applicants do not want to take undue benefit of delay and would not insist upon payment of interest for the period from the date of death of their father to the date of filing of the civil revision application.

4. Learned advocate further submits that this court has on quite a few occasions considered matters in similar situation and have granted request of applicants. He further, on instructions, has referred to that the applicants would not claim interest on the delayed period, in case compensation is enhanced by the reference court.

5. Having regard to aforesaid and resistance is being raised on technical grounds and particularly since veracity of the contentions on behalf of the applicants is not being in dispute and also taking into account the guidelines of supreme court in the case of *“Dhiraj Singh (Dead) Through Legal Representatives and Others V/s State of Haryana and others”* reported in (2014) 14 SCC 127 it would be expedient to allow request made under present civil revision application.

6. As such, civil revision application is granted in terms of prayer clause "C". Land Acquisition Reference be proceeded with further expeditiously. Taking into account the statement referred to above on behalf of the applicants for waiver of interest, the applicants to file an undertaking before the reference court that they would not claim / insist upon payment of interest for the period from the date of death of their father to the date of filing this civil revision application, in case reference court enhances amount of land acquisition compensation, within a period of twelve weeks from the date of receipt of writ of this order in reference court.

7. Rule is made absolute in aforesaid terms. Civil revision application stands disposed of.

[SUNIL P. DESHMUKH, J.]