

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

CIVIL REVISION APPLICATION NO.209 OF 2017

- 1) Shripati s/o Sadhu Kale died
through his legal heirs
 - i) Prayagbaie w/o Shripati Kale
Age: 75 years, Occu.: Nil
 - ii) Sau.Mangalbaie w/o Laxman
Jamgaonkar
Age: 60 years, Occu.: Agriculture
 - iii) Sau.Sumanbaie Madhukar Khune
Age: 59 years, Occu.: Agriculture
 - iv) Shri Hanmant s/o Shripati Kale
Age: 56 years, Occu.: Agriculture
 - v) Kamalbaie Shivaji Mali
Age: 52 years, Occu.: Agriculture
 - vi) Kalavati Yadav Hagare
Age: 50 years, Occu.: Agriculture
 - vii) Kanta Ashok Yadav
Age: 50 years, Occu.: Agriculture

All above R/o.Kati, Tq.Tuljapur,
Dist.Osmanabad.

..Applicants

VERSUS

- 1) The State of Maharashtra, through
The Collector, Osmanabad.
- 2) The Deputy Collector,
Land Acquisition, Manjara Project,
Osmanabad. ..Respondents

THE STATE OF MAHARASHTRA, THROUGH THE COLLECTOR
OSMANABAD AND ANOTHER

...

WITH

CIVIL REVISION APPLICATION NO.210 OF 2017

WITH

CIVIL REVISION APPLICATION NO.211 OF 2017

WITH

CIVIL REVISION APPLICATION NO.213 OF 2017

WITH

CIVIL REVISION APPLICATION NO.214 OF 2017

...

...

Advocate for Applicants : Mr.Ganesh V. Patil

AGP for Respondents/State : Mr.A.M.Phule

(In CRA No.209/2017)

AGP for Respondents/State : Mr.S.P.Deshmukh

(In CRA Nos.210/2017 and 214/2017)

AGP for Respondents/State : Mr.K.N.Lokhande

(In CRA Nos.211/2017 and 213/2017)

...

CORAM : M.S.SONAK, J.

DATE : 15th JANUARY, 2018

ORAL JUDGMENT:-

1) Heard Mr.Ganesh Patil, learned counsel for the applicants and the learned Assistant Government Pleaders Mr.A.M.Phule, Mr.S.P.Deshmukh and Mr.K.N.Lokhande for the respondents in the respective matters.

2) Rule. With consent of the parties and at the request of learned counsel, rule is made returnable forthwith.

3) These are revision applications taken out in terms of Section 18(3) of the Land Acquisition Act, 1894 (said Act), as applicable to the State of Maharashtra, to question order dated 21.9.2017 made by the Deputy Collector (Land Acquisition) rejecting the applicants' application seeking reference under Section 18 of the said Act, for non-payment of Court fees within the prescribed period.

4) In these cases, there is no dispute that the applications seeking reference were made within the prescribed period of limitation. However, alongwith the applications, the requisite Court fees were not submitted by the applicants. Instead, the applicants had made a prayer to the Deputy Collector to refer the matters to the Reference Court and that the applicants would pay the Court fees before the Reference Court.

5) Mr.Ganesh Patil learned counsel submits that without any intimation to the applicants and without any compliance of principles of natural justice and fair opportunity, impugned order came to be made rejecting the applications for reference.

6) Although, in the normal course, Court fees are required to be accompanied the application seeking the references, in these cases, some opportunity was required to be given to the applicants before rejecting their

applications for reference. The Deputy Collector could have made a specific order granting fixed time to pay the Court fees and upon failure to do so, could have perhaps rejected the applications. In any case, the Deputy Collector should have atleast disposed of the applications/requests for payment of Court fees before the Reference Court. Since, this does not appear to have been done in the present case, it is only appropriate that the impugned orders are set aside and the applicants are granted an opportunity to pay the Court fees as a precondition for reference.

7) In all these cases, the impugned Orders came to be made without offering opportunity to the applicants to show cause why their applications should not be rejected for non-payment of Court fees. In case such opportunities were granted, in all probabilities the applicants would have made good the deficiency within some reasonable period. This is yet another reason to set

aside the impugned orders.

8) Mr.Ganesh Patil learned counsel for the applicants states that the applicants shall, within a period of four weeks from today, pay the necessary Court fees.

9) If the necessary Court fees are deposited with the Deputy Collector within a period of four weeks from today, the impugned order dated 21.9.2017 shall stand set aside. The Deputy Collector shall then make a reference to the Reference Court in terms of Section 18 of the said Act within a period of six weeks from the date of receipt of the Court fees.

10) However, if no Court fees are paid within four weeks from today, then these revision applications shall be deserved to have been dismissed without any further reference to this Court.

11) The revision applications are disposed of in the aforesaid terms. There shall be no order as to costs.

12) All concerned to act on authenticated copy of this order.

[M.S.SONAK, J.]