

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12535/2016

Laxman D. Karande & Anr.

... Petitioners

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. S. P. Urgunde i/b. A. U Patil for the Petitioner

Mr. V. N. Sagare, AGP for the Respondent State.

**CORAM: K.K. TATED &
B. P. COLABAWALLA, JJ.**

DATED : MARCH 12, 2018

P.C. :

1 Heard. By this petition under Article 226 of the Constitution of India, the Petitioners seek limited prayer that the Respondents be directed to decide their Application u/s.28A of the Land Acquisition Act, 1894 dated 05.02.2003 (Exhibit-C, page 23 of the Petition).

2 The learned counsel for the petitioners submits that the Respondents by their letter dated 24.04.2015 informed to the petitioners that original copy of application filed by them under section 28A of the said Act is not available in their record. Not only that, more than 12 years have passed from the date of filing of the application. Therefore, it is not possible for them to decide their application. He submits that it is not the mistake of the petitioners that original copy of application under section 28A is not available on Respondents' file. It is

their duty to preserve the same and decide on its own merits. He submits that subsequently when the matter was on board on 11.12.2014 before the Special Land Acquisition Officer No.3, they tendered photocopy of the same. Hence, Respondents may be directed to decide their application on its own merits.

3 On the other hand, the learned A.G.P. vehemently opposed the present Petition. He submits that for last several years, no one appeared on behalf of the petitioners before the Land Acquisition Officer for fixing date of hearing. Now first time after more than 12 years, they made application for deciding their application under section 28A of the said Act. Hence, there is no substance in the present petition and same is required to be dismissed with costs.

4 Considering the submissions made by the learned counsel for the Petitioners and the Affidavit in reply filed by the Respondent State, we are of the opinion that the Respondents to decide the Petitioners' Application u/s.28A of the said Act on its own merits after after giving opportunity of hearing.

5 Hence, following order is passed.

a. Hence, the Respondent State to decide Application u/s.28A of the Land Acquisition Act, 1894 dated 05.02.2003 (Exhibit-C, page 23 of the Petition) as early as possible, in any case within six months from today.

b. The Writ Petition stands disposed of accordingly.

c. No order as to costs.

(B. P. COLABAWALLA, J.)

(K.K. TATED, J.)