

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

925 CRA NO.9 OF 2019

ANWARKHAN KARIMKHAN AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR,  
NANDED AND OTHER

...

Advocate for Petitioners : Smt. Savita S.Kulkarni h/f  
Mr.Nagarkar Kiran M.

AGP for Respondent No. 1: Mr. A.B. Chate.

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**CORAM : M.S.KARNIK, J.**

**Dated: August 22, 2019**

**PER COURT :-**

The revision applicants are challenging the judgment and order dated 19.9.2018, passed by the Civil Judge Senior Division, Mukhed, in Land Reference Nos. 194 of 2007, (Old No. 182 of 2006) under Section 18 of the Land Acquisition Act, 1984. The claim of the applicants is dismissed on the ground that despite granting sufficient opportunity for leading the evidence, the applicants/claimants did not lead any evidence.

2. The learned counsel for the applicants invited my attention to the age of the claimants on the date of filing of the claim petition in the year 2007. The claimants were 65 and 60 years of age

respectively. As on the date of the decision of the Reference Court, the applicants were aged about 77 and 72 respectively.

3. It is the contention of the learned counsel for applicants that because of old age, they could not pursue the claim petition diligently. It is further contention of the learned counsel for the applicants that there was some communication gap between their lawyers and them in the Trial Court, as a result of which the applicants could not lead evidence. The learned counsel for the applicants would submit that the only land available with them is acquired and considering their old ages, it is necessary that one opportunity should be given to them to lead the evidence so that they can get the benefit of enhanced compensation of the Reference is allowed.

4. The learned AGP appearing on behalf of the

respondents supported the orders passed by the Land Reference Court. He invited my attention to the findings and submitted that despite granting sufficient opportunity to the applicants to lead evidence, the applicants failed to lead any evidence. He would further submit that the Reference Court had no option but to dismiss the claim petition.

5. Heard the learned counsel. In my opinion, considering the age of the applicants and in view of oral submissions made by the learned counsel for the applicants that there was some communication gap between the applicants and their Lawyers, which resulted into the applicants in not leading any evidence, an opportunity needs to be given to the applicants.

6. I find force in the submission of the learned counsel for the applicants that having regard to the age of the applicants and further that the

only land available with the applicants is acquired, one opportunity needs to be given to the applicants to lead evidence before the Land Reference court, in the interest of the justice.

7. The learned counsel for the applicants, on instructions, submits that the applicants would co-operate with the Reference Court in expeditious disposal of the claim petition and would not seek unnecessary adjournments. The Revision application, is therefore, allowed. The order impugned, in this Revision application, is set aside. The applicants/claimants to appear before the Land Reference Court on 23.9.2019 along with a copy of this order.

8. The Trial Court to permit the applicants to lead evidence. It is made clear that the applicants shall cooperate with the Reference Court in expeditious disposal of the claim petition. The Reference Court is requested to hear the Reference

expeditiously and preferably within a period of 9 months from 23.9.2019.

**( M.S.KARNIK )**  
**JUDGE**

mahajansb/