

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

WRIT PETITION NO.2522 OF 2019

Sanjay Ajinath Supekar,
Age: 35 years, Occu: Agri.,
R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar.

...Petitioner

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.

2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.

3. The Special Land Acquisition Officer,
No.1, Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO.2523 OF 2019**

Ramesh Dadasaheb Supekar,
Age: 45 years, Occu: Agri.,
R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar.

...Petitioner

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.

2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.

3. The Special Land Acquisition Officer,
No.1, Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO.2562 OF 2019**

1. Baburao Raosaheb Mahadik,
Age: 74 years, Occu: Agri.,
2. Vaijanta Baburao Mahadik,
Age: 72 years, Occu: Agri.,
3. Nanasaheb Baburao Mahadik,
Age: 50 years, Occu: Agri.,
4. Santosh Baburao Mahadik,
Age: 46 years, Occu: Agri.,
5. Vishal Nanasaheb Mahadik,
Age: 28 years, Occu: Agri.,
6. Bharat Nanasaheb Mahadik,
Age: 24 years, Occu: Agri.,

All R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar.

...Petitioners

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.
2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.
3. The Special Land Acquisition Officer,
No.1, Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO.2563 OF 2019**

1. Bhausahab Deorao Mahadik,
Age: 63 years, Occu: Agri.,
2. Lilabai Bhausahab Mahadik,
Age: 59 years, Occu: Agri.,

(3)

3. Raju Bhausahab Mahadik,
Age: 34 years, Occu: Agri.,

All R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar.

...Petitioners

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.

2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.

3. The Special Land Acquisition Officer,
No.1, Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO.2564 OF 2019**

Dadasaheb Annasaheb Supekar Died,
Through L'rs,

1. Gorakh Dadasaheb Supekar,
Age: 39 years, Occu: Agri.,
2. Vilas Himmat Supekar,
Age: 32 years, Occu: Agri.,
3. Chaya Himmat Supekar,
Age: 46 years, Occu: Agri.,
4. Ramesh Dadasaheb Supekar,
Age: 74 years, Occu: Agri.,
5. Suman Dadasaheb Supekar,
Age: 43 years, Occu: Agri.,
6. Bapurao Himmat Supekar,
Age: 44 years, Occu: Agri.,

All R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar.

...Petitioners

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.
2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.
3. The Special Land Acquisition Officer,
No.1, Ahmednagar. ...Respondents

**WITH
WRIT PETITION NO.2565 OF 2019**

1. Pankaj Ramdas Mahadik,
Age: 45 years, Occu: Agri.,
 2. Mahesh Ramdas Mahadik,
Age: 42 years, Occu: Agri.,
- All R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar. ...Petitioners

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.
2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.
3. The Special Land Acquisition Officer,
No.1, Ahmednagar. ...Respondents

**WITH
WRIT PETITION NO.2566 OF 2019**

1. Ramdas Nivrutti Mahadik,
Age: 49 years, Occu: Agri.,
2. Balu Nivrutti Mahadik,
Age: 45 years, Occu: Agri.,

All R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar.

...Petitioners

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.

2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.

3. The Special Land Acquisition Officer,
No.1, Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO.2567 OF 2019**

Avinash Vitthal Mahadik,
Age: 49 years, Occu: Agri.,
R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar.

...Petitioner

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.

2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.

3. The Special Land Acquisition Officer,
No.1, Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO.2568 OF 2019**

1. Narmadabai Bhausahab Mahadik,
Age: 63 years, Occu: Agri.,

2. Suryakant Babasaheb Mahadik,
Age: 39 years, Occu: Agri.,

(6)

3. Ramdas Mahadeo Mahadik,
Age: 36 years, Occu: Agri.,

All R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar.

...Petitioners

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.

2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.

3. The Special Land Acquisition Officer,
No.1, Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO.2569 OF 2019**

Kamal Dadasaheb Supekar,
Age: 59 years, Occu: Agri.,
R/o. Supekarwadi, Tq. Karjat,
Dist. Ahmednagar.

...Petitioner

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.

2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.

3. The Special Land Acquisition Officer,
No.1, Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO.2570 OF 2019**

Kalawati Vijay Supekar,
Age: 59 years, Occu: Agri.,
R/o. Supekarwadi, Tq. Karjat,

Dist. Ahmednagar.

...Petitioners

Versus

1. The State of Maharashtra
Through Collector,
Ahmednagar, Dist. Ahmednagar.

2. The Executive Engineer,
K.L.B.C. Kolawadi,
Tq. Karjat, Dist. Ahmednagar.

3. The Special Land Acquisition Officer,
No.1, Ahmednagar.

...Respondents

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Mr. Vivek V. Tarde, Advocate for Petitioners.

Mr. S.D. Ghayal/Mr. K.B. Jadhavar, AGP for
Respondents/State.

Mr. G.B. Rajale, Advocate for Respondent No.2.

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CORAM : P.R. BORA, J.
DATED : 04th APRIL, 2019.

ORAL JUDGMENT:-

. Rule. Rule made returnable forthwith.

2. The common issue raised in all these petitions is "whether a reference under Section 18 of the Land Acquisition Act, 1894 could have been dismissed by the Collector and/or Special Land Acquisition Officer on the ground that the claimants failed in paying the court fee within the time stipulated for it?". In all these matters, the reference applications preferred by the petitioners have been dismissed by the Special Land Acquisition Officer on

the aforeasaid ground.

3. Shri V.V. Tarde, the learned counsel appearing for the petitioners in all these matters relying upon the judgment of the division bench judgment of this Court in the case of "**Sambhaji Manaji Chate and Anr Vs. State of Maharashtra and Anr, 2003 (2) Mh.L.J. 661**", submitted that the Collector has rejected the reference applications on erroneous grounds and hence, prayed for allowing the writ petitions.

4. The learned AGP Shri Ghayal as well as the learned counsel Shri G.B. Rajale appearing for the acquiring body, have conceded the legal position as is revealing from the judgment of the division bench of this Court and have submitted for passing appropriate orders. I deem it appropriate to reproduce hereinbelow paragraphs nos. 9 and 10 of the judgment in the case of '**Sambhaji Manaji Chate**' (cited supra), which read thus:

"9. On perusal of section 18 of the Land Acquisition Act, it is seen that section 18(1) entrusts to the SLAO a statutory duty to make reference on the fulfilment of the conditions laid down therein. Hence once the necessary conditions under section 18 have been complied with by the applicant/petitioners, the S.L.A.O. ought to have

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forwarded the reference. A written application makes it incumbent on the Collector to make a reference provided that the necessary conditions are fulfilled. The four essential requisites for reference under section 18 are:

(a) The reference is to be asked for by the party aggrieved not accepting the award or has accepted the award under protest.

(b) It must be an application in writing with a request to make a reference.

(c) It should contain the grounds of objection in clear terms.

(d) The application was made within time.

In the present case the petitioners have complied with all the essential requisites and thus the S.L.A.O. ought to have forwarded their application for reference to the Civil Court by giving some time to the petitioners for removing the deficiency regarding the payment of Court fees either before him or before the reference Court.

10. In view of the clarification given by the Apex Court, it is clear that the person preferring an application under section 18 of the Land Acquisition Act is required to pay the court fees. However, this amount could be remitted/deposited even before the Reference Court and, therefore, it is appropriate for the S.L.A.O. to pass a conditional order on the application for Reference preferred by the petitioners and to forward it to the Civil Court."

5. In view of the law laid down as above, the orders impugned in the present petitions whereby the Collector and/or the Special Land Acquisition Officer has rejected the

reference applications for failure on part of the petitioners to pay the court fee are set aside and it is directed that the Collector and/or the Special Land Acquisition Officer shall forward the reference to the Civil Court for its adjudication. The petitioners are directed to pay the required court fee within the period of three months before the Reference Court and unless such compliance is made, the references shall not be registered. All writ petitions accordingly stand disposed of.

6. Rule is made absolute in the aforesaid terms without any order as to costs.

(P.R. BORA, J.)

Mujaheed//