

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3772 OF 2018

ARUN TUKARAM JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Koralkar Arun H.
AGP for Respondents No. 1 to 3 :
Mr. S. M. Ganachari

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CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.

DATE: 01st FEBRUARY, 2019

PER COURT :

1. The petitioner seeks directions against the respondent to forward the reference filed by him under Section 18 of the Land Acquisition Act, 1894 with the Collector office to the District Court, Jalna.

2. It is contended by the petitioner that the petitioner had filed the reference on 02.01.2013 without Court fees and the Court fees of Rs.11015/- was deposited on 15.11.2013, however,

the reference has not been forwarded to the District Court.

3. Mr. Ganachari, the learned Assistant Government Pleader on the basis of the affidavit filed by the Sub-Divisional Officer, Jalna submits that the earlier cases pertaining to land acquisition were dealt with by the Land Acquisition Officer Collectorate, Jalna in August – 2013. The matters were transferred to Sub-Divisional Officer, Jalna to deal with the cases pertaining to land acquisition and accordingly the Land Acquisition Officer Collectorate, Jalna has transferred the cases for further process, and the reference of the petitioner could not be traced though searched.

4. In many matters we have found that the Collector / competent authority to whom the reference under Section 18 of the Land Acquisition Act, 1894 is filed for transmitting it to the District Court has not transmitted the same for

considerable length of time.

5. The claimant is required to file reference within six (6) weeks on receipt of notice under Section 12 (2) of the Land Acquisition Act, 1894 or six months from the date of award. The Collector / competent authority to whom the reference is filed has to thereafter transmit the said reference to the concerned District Court. In fact, apart from the compliance of Section 19 of the Land Acquisition Act, 1894 the Collector has to do ministerial act of transmitting the reference to the District Court. We had observed in many cases that these references are not forwarded for years together. The competent authority should keep in mind that in case the claimants get enhanced compensation amount then the State / acquiring body is required to bear the burden of interest at the rate of 15% per annum; in case the possession has been taken. The loss is of a public exchequer.

6. If the competent authority diligently transmits the reference to the District Court, then the matter could be expeditiously decided. It would be in the interest of the claimants so also State / acquiring body to get the matter expeditiously decided. By retaining the matter and not transmitting the same for quite length of time amounts to dereliction of his duty.

7. Though, no time period is prescribed for remitting the reference filed before it to the District Court under the Land Acquisition Act, 1894 the authority is required to transmit the same within reasonable time. In the present case, because the immediate steps were not taken to transfer the reference; it has resulted into loss of the reference at the end of the Collector office / competent authority. The petitioner has filed on record the copy of the reference submitted to the competent authority. It bears an endorsement that the same is received on 02.01.2013 by the authority and the Court fees is

deposited on 15.11.2013.

8. Henceforth the competent authority shall forward the reference received by it to be transmitted to the District Judge within reasonable time after complying Section 19 of the Land Acquisition Act, 1894. The reasonable time may be three months.

9. In the present case, the reference submitted by the petitioner shall be re-constructed. The petitioner shall submit the copy of the reference filed by it on 02.01.2013 to the competent authority along with all documents. The competent authority on receipt of the same shall immediately within four weeks transmit it to the concerned District Court.

10. Writ Petition accordingly stands disposed of.
No costs.

11. Copy of this order be circulated to all the competent authorities that are required to deal

with Reference and are supposed to transmit the same to the Court.

[A. M. DHAVALA, J.] [S. V. GANGAPURWALA, J.]

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