

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
1026 WRIT PETITION NO.10053 OF 2013**

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

NARAYAN SATWA VATGIR AND OTHERS ..RESPONDENTS

**WITH
1026.1 WRIT PETITION NO.10039 OF 2013**

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

KERBA MAHADU AND OTHERS ..RESPONDENTS

**WITH
1026.2 WRIT PETITION NO.10040 OF 2013**

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

MAROTRAO JAGDEVRAO L.RS. PANDIT AND OTHERS
..RESPONDENTS

**WITH
1026.3 WRIT PETITION NO.10041 OF 2013**

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

GOVINDRAO KANBARAO AND OTHERS ..RESPONDENTS

**WITH
1026.4 WRIT PETITION NO.10042 OF 2013**

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT

CORPORATION ..PETITIONER

VERSUS

TULSHIRAM RAMA L.RS. JANKABAI AND OTHERS
..RESPONDENTS

WITH
1026.5 WRIT PETITION NO.10043 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

RANBARAO ANANDRAO DIED KANBARAO DIES LRS SHIVPRASAD
MASKE AND OTHERS ..RESPONDENTS

WITH
1026.6 WRIT PETITION NO.10044 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

VITHTHALRAO PATINGRAO VATGIR AND OTHERS
..RESPONDENTS

WITH
1026.7 WRIT PETITION NO.10045 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

JALUBAI NAGOJI L.R. KONDABAI AND OTHERS
..RESPONDENTS

WITH
1026.8 WRIT PETITION NO.10046 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

BHAGWANRAO SHRIPATRAO AND OTHERS ..RESPONDENTS

WITH

1026.9 WRIT PETITION NO.10047 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

SUDAM PARASRAM PAIKRAO AND OTHERS ..RESPONDENTS

WITH

1026.10 WRIT PETITION NO.10048 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

BABARAO BAJIRAO MASKE AND OTHERS ..RESPONDENTS

WITH

1026.11 WRIT PETITION NO.10049 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

KISAN NARAYAN KEJGIR AND OTHERS ..RESPONDENTS

WITH

1026.12 WRIT PETITION NO.10050 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

TUKARAM SATOJI VATGIR L.R. KALABAI AND OTHERS
..RESPONDENTS

WITH
1026.13 WRIT PETITION NO.10051 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

NAGORAO DEVBARAO L.RS. SURYABHAN AND OTHERS
..RESPONDENTS

WITH
1026.14 WRIT PETITION NO.10052 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

GANPATRAO PATINGRAO VATGIR L.RS. BHAGUBAI AND
OTHERS ..RESPONDENTS

WITH
1026.15 WRIT PETITION NO.10054 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

CHAMPATRAO KONDBARAO MASKE AND OTHERS
..RESPONDENTS

WITH
1026.16 WRIT PETITION NO.10055 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION ..PETITIONER

VERSUS

SHAMA PARASRAM PAIKRAO AND OTHERS ..RESPONDENTS

WITH
1026.17 WRIT PETITION NO.10056 OF 2013

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
 CORPORATION ..PETITIONER

VERSUS

SHANKAR GANGARAM KEJGIR AND OTHERS ..RESPONDENTS

WITH
1026.18 WRIT PETITION NO.376 OF 2014

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
 CORPORATION ..PETITIONER

VERSUS

RAMA KERBA KEJGIR AND OTHERS ..RESPONDENTS

WITH
1026.19 WRIT PETITION NO.745 OF 2014

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
 CORPORATION ..PETITIONER

VERSUS

SHRAVAN TULSHIRAM AND OTHERS ..RESPONDENTS

WITH
1026.20 WRIT PETITION NO.746 OF 2014

GODAWARI MARATHWADA IRRIGATION DEVELOPMENT
 CORPORATION ..PETITIONER

VERSUS

SARJABAI PUNJAJI L.RS. RADHABAI AND OTHERS
 ..RESPONDENTS

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Mrs. Kalpalata B. Bharaswadkar Patil, Advocate for
 the Petitioner.

Mr. K. B. Jadhavar, AGP for Respondents-State.

Mr. Suhas R. Shirsat, Advocate for Respondent No.1.
Mr. Hanmant V. Patil, Advocate for Respondent No.1
in WP/10043/2013.

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**CORAM : S. V. GANGAPURWALA &
ANIL S. KILOR, JJ.**

DATED : 20th SEPTEMBER, 2019.

PER COURT:-

1. The petitioner assails the order passed by the Special Land Acquisition Officer under Section 28 (A) of the Land Acquisition Act, 1894. The petitioner is the acquiring body.

2. Mrs. Bharaswadkar Patil, learned counsel for petitioner strenuously contends that the application filed by the petitioner under Section 28 (A) was barred by limitation. The Special Land Acquisition Officer could not have entertained the applications filed by petitioners after the period of three months from the date the judgment relied by the petitioners in the Land Acquisition Reference was passed. The learned counsel relies on the judgment of the Apex Court in a case of **Union of India and Another Vs. Pradeep Kumari and others** reported in (1995) 2 SCC 736.

3. The learned counsel further submits that initially on 30.07.2004 the Special Land Acquisition Officer has rejected the claim of the petitioners on the ground that the applications are filed beyond the limitation and the applications were not complete in all respects. The claimants

approached this Court. This Court under order dated 09.04.2012 restored the application and directed the authority to decide the applications on merits. The learned counsel submits that there is nothing on record to hold that the petitioners had filed the applications within the prescribed period of limitation. The learned counsel further submits that considering the order passed by the Special Land Acquisition Officer, it would be clear that applications were barred by limitation. The applicants relied on the judgment of the Reference Court passed under Section 18 of the Land Acquisition Act in L.A.R. No.46/1989 dated 07.02.2003. The Special Land Acquisition Officer in the impugned order came to the conclusion that the applications are filled by the petitioners on 05.06.2003. Accepting the said date also the applications *ex-facie* are barred by limitation. According to the learned counsel, the impugned judgment on this sole ground deserves to be quashed and set aside.

4. Mr. Shirsat and Mr. Patil, learned counsel submit that applications are filed by the claimants well within the prescribed period of limitation. The applications are filed on 06.05.2003. In the order instead 06.05.2003, the Special Land Acquisition Officer has incorrectly mentioned the dated as 05.06.2003 that is the date of presentation of the applications by the claimants. In first paragraph of the order, it is clear that

applications are filed on 06.05.2003. The applications are well within the prescribed period of limitation. The amounts awarded are meager amount.

5. We have considered the submissions canvassed by the learned counsel for the respective parties. The challenge to the impugned orders is only on the ground of delay.

6. Section 28 (A) of the Land Acquisition Act permits those claimants who have not filed Reference under Section 18 of the Land Acquisition Act to move the Special Land Acquisition Officer for enhancement of the compensation amount pursuant to the Award passed by the Court under Section 18 of the Land Acquisition Act. Of course, with the caution that, land of the petitioners also shall be covered by the same Notification under Section 4 as of the claimants whose Reference under Section 18 of the Land Acquisition Act is allowed. The said provision further mandates that the applications shall be filed within a period of three months from the date of Award of the Court relied by the claimants. The proviso to Section 28-A (1) further provides that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall

be excluded.

7. We had called for the record of the proceedings before Special Land Acquisition Officer. The applications filed by the claimants show that the applications are filed on 06.05.2003. The applications are signed and verified by the claimants on 05.05.2003.

8. The petitioners had relied upon the judgment dated 07.02.2003 passed by the Reference Court under Section 18 of the Land Acquisition Act in L.A.R. No.46/1989. The application for getting certified copy of the said order is made on 07.03.2003. The certified copy is received by the claimants on 24.03.2003. The period required for obtaining the certified copy is to be excluded in view of the proviso to Section 28-A(1).

9. The petitioners have also in the petitions no where pleaded as to the date on which the claimants have filed an applications and the other dates required. Upon perusal of the applications of the claimants under Section 28-A, it appears that the same are filed on 06.05.2003. There is no other endorsement in the file to conclude that the same are filed on some other date. Much of the record it appears is already damaged by termite. The same is endorsement on the record and proceeding received by this Court.

10. Upon perusal of original record, it appears that the applications are filed on 06.05.2003 and the date mentioned by the Special Land Acquisition Officer in the impugned order as 05.06.2003 appears to be typographical error.

11. Considering the applications to have been filed on 06.05.2003, the applications are well within prescribed period of limitation. The impugned order needs no interference.

12. The learned counsel for claimants submits that the amount be remitted to Special Land Acquisition Officer, as it will be easier for the claimants to withdraw the amount from the office of the Special Land Acquisition Officer.

13. In view of the request made, the amount be transmitted to the concerned Special Land Acquisition Officer alongwith accrued interest, if any and the Special Land Acquisition Officer shall remit the amount in the accounts of the claimants by RTGS or any other banking mode.

14. In light of the above, writ petitions are disposed of. No costs.

(ANIL S. KILOR)
JUDGE

(S. V. GANGAPURWALA)
JUDGE