

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 9134 OF 2015

1. Meenabai Wd/o Sanjay Gaikwad,
Age: 32 Years, Occu: Household,
R/o. Daregaon, Tq. Khultabad,
Dist. Aurangabad.
2. Namdev s/o Dagadu Gaikwad,
Age: 40 Years, Occu: Agri,
R/o: Daregaon,
Tq. & Dist: Aurangabad.

... PETITIONERS

VERSUS

1. The State of Maharashtra,
Through it's Secretary,
Agricultural & Village Development
Department, Mantralaya,
Mumbai-32.
2. The District Collector, Aurangabad,
Tq. & Dist. Aurangabad.
3. The Spl. Land Acquisition Officer,
Krushna Khore, Aurangabad,
Tq. & Dist. Aurangabad.
4. The Deputy Agricultural Officer,
Vaijapur, Tq. Vaijapur,
Dist. Aurangabad.
5. The Executive Engineer,
Local Sector, Minor Irrigation Dept,
Aurangabad Division, Aurangabad.
Tq. & Dist. Aurangabad.

... RESPONDENTS

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Mr. V. B. Dhage, Advocate for Petitioners.

Mr. R. B. Bagul, AGP for Respondent Nos.1 to 4.

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CORAM : **T. V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

DATE : 29th January, 2019.

ORAL JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2 It is the grievance of the Petitioners that the Special Land Acquisition Officer has not considered the entire area acquired of the Petitioners and compensation is granted only in respect of some area. It is also the contention of the Petitioners that in the land shown to be acquired, there were many mango trees, but no compensation is ascertained in respect of those trees and no compensation is awarded by the Special Land Acquisition Officer.

3 This Court has carefully gone through the record considered by the Special Land Acquisition Officer, which includes the

record in respect of mango trees. In most of the forms there is mention of mango trees, but admittedly, no compensation is awarded by the Special Land Acquisition Officer in respect of the mango trees. On one occasion, even report was also called about valuation. The dispute about the area, which is actually acquired is kept open as there is nothing concrete in this regard with the Petitioner and it will be open to him to raise that point before the Land Reference Court.

4 The learned counsel for Petitioners placed reliance on the observations made by this Court in two cases like ***First Appeal No.1768 of 2015*** decided on 20th January, 2006 at Principal Seat (*Eknath B. Pisal Vs. Special Land Acquisition Officer No.19 Satara and another*) and ***Civil Revision Application No.1107 of 2002*** decided at this Bench on 1st March, 2007 (*Vitthal Ramrao Talegave and others Vs. State of Maharashtra and others*). In these cases, liberty was given to the Claimants to file proceeding before the Reference Court in view of the peculiar circumstances of those matters and this Court observed that in such cases, expression "the date of the award" used in provisio (b) to Section 18(2) of the Act must mean the date when award is either communicated to party or is

known by him either actually or constructively. Thus, it is observed that the actual date of award need not be considered and in such cases, reference can be allowed to be made even beyond the period of six weeks given in the provisions. Section 5 of the Limitation Act was considered by this Court. The facts of present matter are also peculiar in nature and they are already quoted. In view of these circumstances, this Court holds that for doing justice, the Petitioners can be allowed to file reference in respect of the award delivered in respect of aforesaid two claims within six weeks from today. With this liberty, the present petition is disposed of as partly allowed. Rule made absolute in those terms.

[SUNIL K. KOTWAL, J.]

[T. V. NALAWADE, J.]

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