

(1)

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

CIVIL REVISION APPLICATION NO.152 OF 2016

Sow. Pushpa Ratan Sonule
Age 44 years, Occ. Household
R/o c/o T.K. Rawate,
Patbhandhare Nagar,
Taroda (Bk), Tq & Dist. Nanded

**= APPICANT
(Orig. Claimant)**

VERSUS

1. The State of Maharashtra,
Through District Collector,
Nanded.
2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded
3. The Executive Engineer
Public Works Division,
Nanded

**= RESPONDENTS
(Orig. Respondents)**

Mr Kurundkar Sunil V., Adv. For Applicant;
Ms P V Diggikar, AGP for Respondents-State;

WITH

CIVIL REVISION APPLICATION NO.153 OF 2016

Govind Venkatrao Kottawar
Age 49 years, Occ. Business
R/o CIDCO, New Nanded
Tq. Nanded & Dist. Nanded.

**= APPICANT
(Orig. Claimant)**

VERSUS

1. The State of Maharashtra
Through District collector,
Nanded
2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded

(2)

3. The Executive Engineer
Public Works Division,
Nanded

**= RESPONDENTS
(Orig. Respondents)**

Mr Kurundkar Sunil V., Adv. for Applicant;

Mr A B Chate, AGP for Respondents-State;

WITH

CIVIL REVISION APPLICATION NO.154 OF 2016

Sow. Snehalata Dhondiram Mathpati
Age 51 years, Occ. Household
R/o Ashirwadnagar, Taroda (Bk)
Tq. Nanded & Dist. Nanded

**= APPLICANT
(Orig. Claimant)**

VERSUS

1. The State of Maharashtra
Through District collector,
Nanded

2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded

3. The Executive Engineer
Public Works Division,
Nanded

**=RESPONDENTS
(Orig. Respondents)**

Mr Kurundkar Sunil V., Adv. for Applicant;

Mr S K Tambe, AGP for Respondents-State;

WITH

CIVIL REVISION APPLICATION NO.155 OF 2016

Hanmanlu S/o Lachmayya Namanwar
Age 75 years,
Occ. Private Medical Practitioner
R/o Degloor, Tq. Degloor
Dist. Nanded.

= APPLICANT

(3)

(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through District collector,
Nanded
2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded
3. The Executive Engineer
Public Works Division,
Nanded

**= RESPONDENTS
(Orig. Respondents)**

Mr Kurundkar Sunil V., Adv. for Applicant;
Ms P V Diggikar, AGP for Respondents-State;

WITH

CIVIL REVISION APPLICATION NO. 156 OF 2016

Sow. Gangutai Namdevrao Zampalwad
Age 44 years,
Occ. Agri. & Household
R/o Janki Nagar, Near Saibaba Primary School,
Hanuman gadh, Nanded,
Tq and Dist. Nanded

**= APPLICANT
(Orig. Claimant)**

VERSUS

1. The State of Maharashtra
Through District collector,
Nanded
2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded
3. The Executive Engineer
Public Works Division,
Nanded

**= RESPONDENTS
(Orig. Respondents)**

(4)

Mr Kurundkar Sunil V., Adv. for Applicant;

Mr A B Chate; AGP for Respondents-State;

WITH

CIVIL REVISION APPLICATION NO.157 OF 2016

Mahesh Ashok Kadge

Age 29 years, Occ. Business

R/o Hanegaon, Tq. Degloor

Dist. Nanded.

**= APPLICANT
(Orig. Claimant)**

VERSUS

1. The State of Maharashtra
Through District collector,
Nanded

2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded

3. The Executive Engineer
Public Works Division,
Nanded

**= RESPONDENTS
(Orig. Respondents)**

Mr Kurundkar Sunil V., Adv. for Applicant;

Mr S K Tambe, AGP for Respondents-State;

WITH

CIVIL REVISION APPLICATION NO. 158 OF 2016

Umakant Vaijanathappa Hodge

Age 52 years, Occ. Business & Agril.

R/o Hanegaon, Tq. Degloor

Dist. Nanded.

**= APPLICANT
(Orig. Claimant)**

VERSUS

1. The State of Maharashtra
Through District collector,
Nanded

(5)

2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded

3. The Executive Engineer
Public Works Division,
Nanded

= **RESPONDENTS**
(Orig. Respondents)

Mr Kurundkar Sunil V., Adv. for Applicant;
Ms.P V Diggikar, AGP for Respondents-State;

WITH

CIVIL REVISION APPLICATION NO.107 OF 2017

Dr. Jayshree Madan Tapdiya
Age 47 years, Occ. Medical Practitioner
R/o Vinayak Hospital Near Bhatiya Complex
Maganpura, Nanded Tq & Dist. Nanded

= **APPLICANT**
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through District collector,
Nanded

2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded

3. The Executive Engineer
Public Works Division,
Nanded

= **RESPONDENTS**
(Orig. Respondents)

Mr Kurundkar Sunil V., Adv. for Applicant;
Mr A B Chate, AGP for Respondents-State;

WITH

CIVIL REVISION APPLICATION NO.150 OF 2016

(6)

Pradip Tukaram Rawte
Age 39 years, Occ. Nil
R/o Patbandhare Nagar,
Taroda (Bk), Tq. & Dist. Nanded.

= **APPLICANT**
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through District collector,
Nanded
2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded
3. The Executive Engineer
Public Works Division,
Nanded

= **RESPONDENTS**
(Orig. Respondents)

Mr Kurundkar Sunil V., Adv. for Applicant;

Mr A B Chate, AGP for Respondents-State;

WITH

CIVIL REVISION APPLICATION NO.151 OF 2016

Ratan Laxmanrao Sonule
Age 53 years, Occ. Service
R/o C/o T.K. Rawate, Patbandhare Nagar
Taroda (Bk), Tq. & Dist. Nanded.

= **APPLICANT**
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through District collector,
Nanded
2. The Dy. Collector Land Acquisition
PT MIW-2, Nanded
3. The Executive Engineer
Public Works Division,
Nanded

= **RESPONDENTS**
(Orig. Respondents)

(7)

Mr Kurundkar Sunil V., Adv. for Petitioner;

Mr A B Chate, AGP for Respondents-State.

CORAM : P.R.BORA, J.

DATE : 14th June, 2019

ORAL JUDGMENT

1. In all these civil revision applications since the issue involved is common, I heard common arguments in all these revision applications and I deem it appropriate to decide all these revision applications by a common reasoning.

2. The only issue, which requires to be considered in the present civil revision applications is, - "whether the Reference Applications under Section 18 of the Land Acquisition Act, 1984 (herein after referred to as the said Act), were filed by the present revision applicants within the prescribed period of limitation ?"

3. It is the case of the revision applicants that they did prefer the Reference Applications under Section 18 of the Act within the period of

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limitation. It is the further contention of the applicants that after having come to know about passing of the Award under Section 11 of the Act in respect of their acquired lands, within the prescribed period of limitation, all of them had preferred the Reference Applications. It is, therefore, the contention of the revision applicants that the Reference Applications filed by them were all within the period of limitation.

4. The order passed by Respondent No 2, however, reflects that he has held the Reference Applications to have been filed beyond the period of limitation and he has, therefore, refused to forward said Applications to the civil court for their adjudication.

5. The learned counsel for the revisionists has placed on record a chart, showing the details as regard date of Award passed under Section 11 of the Act; date of knowledge; date of service of notice; date of filing the reference application and date of knowledge according to Government. The said chart is reproduced herein below, -

CRA No.	Date of Award U/s 11	Date of knowledge	Date of service of 12/2 notice	Date of filing reference	Date of knowledge according to Government
152/2016	07.11.2013	10.02.2014	Not Served	05.03.2014	30.11.2013 as per Talathi Panchanama
153/2016	07.11.2013	07.11.2014	Not Served	11.12.2014	30.11.2013 as per Talathi Panchanama
154/2016	07.11.2013	04.03.2014	Not Served	26.03.2014	30.11.2013 as per Talathi Panchanama
155/2016	7.11.2013	27.01.2014	Not Served	23.12.2014	25.10.2013 as per Talathi Panchanama
156/2016	07.11.2013	07.04.2014	Not Served	24.06.2014	30.11.2013 as per Talathi Panchanama
157/2016	07.11.2013	02.07.2014	Not Served	05.08.2014	23.11.2013 as per Talathi Panchanama
158/2016	07.11.2013	02.07.2014	Not Served	05.08.2014	20.11.2013 as per Panchanama
107/2017	07.11.2013	10.02.2014	Not Served	20.10.2014	NIL
150/2016	07.11.2013	10.02.2014	Not Served	05.03.2014	NIL
151/2016	07.11.2013	10.02.2014	Not Served	05.03.2014	NIL

6. Today, when the revision applications were taken up for hearing, a specific query was made by this court with the learned AGP appearing for the State to point out from the record or from the Say filed by them in the respective matters, as to on which date notice under Section 12(2) of the Act was served upon the respective revision applicants and what record is produced therefor.

7. Learned AGP fairly submitted that no such record is placed on record. He, however, provided a the dates, on which the respective revision applicants were offered the amount of compensation, as per the Award passed under Section 11 of the Act. I deem it appropriate to reproduce those dates in the following table, -

C.R.A. No.	Dates on which Compensation offered to the claimants
152/2016	8.12.2014
153/2016	Not available
154/2016	31.08.2014
155/2016	11.11.2014
156/2016	03.06.2014
57/2016	31.07.2014
158/2016	16.08.2014
107/2017	Not available
150/2016	08.12.2014
151/2016	8.12.2014

8. In two matters, such dates are not available. However, having regard to the dates in the other matters, it can be reasonably inferred that on the same dates, payment of compensation must have been made in the said two matters also.

9. The aforesaid dates, which are provided by the learned AGP apparently show that either the Reference Applications were filed even before the payment of compensation was actually received to the revision applicants or within a very short period after receiving the payment to the applicants. I need not to state that the law is well-settled on the issue that unless the contents of the Awards are made available to the claimants/applicants, the period of limitation for filing the Reference Applications under Section 18 of the Act, will not commence.

10. The learned Counsel has relied upon the following judgments, -

Sr. No.	Name of Citations
1	2019(3) Mh.L.J 580, - Vijay Vs State of Maha
2	2000(4) Mh.L.J 302, - Amol Rambhau Vs State of Mah.
3	2004(2) LACC 473 - Faridabad Gas Power Project, Faridabad Vs Narender Kumar
4	2011(2) Mh.L.J.709 - State of Maharashtra Vs Kashiram
5	2014(2) ALL MR 370 - Sunil Dattatraya Nigade & Ors. Vs Special Land Acquisition Officer & Anr.
6	2012(3) All MR 434 (S.C.) - Premji Nathu Vs State of Gujarat & Anr.
7	2014(2) ALL MR 399 - Madhav Gundaji Shingade & Ors. Vs. State of Maharashtra and Ors.

11. It was the contention of the learned AGP Shri Tambe that the material on record shows that a sincere attempt was made by the Government authorities to serve the notice under Section 12(2) of the Act upon the revision applicants, however, the notices could not be served since the claimants were not found on the said address and panchanamas in that regard were accordingly prepared, in almost all the matters, on 30.11.2013 by Talathi of the concerned village. It was the further contention of the learned AGP that, that should be reckoned as the date, on which knowledge was given to the applicants of the Award passed under Section 11 of the Act and considering said date, none of the Reference

Applications can be said to have been filed within the period of limitation. In the circumstances, according to learned AGP, respondent No. 2 was right in not referring the Reference Applications to the civil court for their further adjudication.

12. I am, however, unable to agree with the submissions made by the learned AGP. As I noted herein above, what is required is service of copy of the Award so that a person concerned may know the contents of the Award passed in respect of acquisition of his land. In none of the matters, any evidence has been produced by the Government or by the acquiring body, evidencing that the copy of the Award was served upon the revision applicants on a particular date and further that the Reference Applications are filed beyond the period of limitation, as provided in the Act after service of the copy of the said Award.

13. In absence of any concrete evidence as about the service of copy of the Award passed under Section 11 of the Act to the respective claimants, I deem it

appropriate to consider the dates on which the amount of compensation has been actually paid by the respondents. As noted herein above, out of ten, in two of such matters, dates are not provided either by the claimants or by the State. In remaining eight matters, such dates are provided, which I have reproduced in the table below para 7. I have also observed in para 8 that in absence of any information as about the payment of compensation made to the claimants in CRA No.153/2016 and CRA No.107/2017. It has to be presumed that the compensation to the said claimants was paid in somewhat similar period. The material on record shows that in some of the matters the Reference Applications under Section 18 were preferred even prior to receiving the payment of compensation by the respective claimants and in some matters, the Reference Applications are filed within the period of one month after receiving the payment. In the circumstances, I have no hesitation in holding that all the Reference Applications, which are the subject mater of the present civil revisions applications, must be held to have been filed within the prescribed period of limitation.

14. After having considered the facts, as aforesaid, it appears to me that respondent No. 2 has wrongly refused to forward the Reference Applications to the civil court for their adjudication. The impugned order, therefore, deserves to be set aside and is accordingly set aside. The revision applications stand allowed and it is directed that Respondent Nos. 1 and 2 shall forward the Reference Applications to the concerned Civil Court for their further adjudication in accordance with law.

15. The Civil Revision Applications stand allowed, as aforesaid. Pending civil applications, if any, stand disposed of.

(P. R. BORA)
JUDGE

BDV