

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

WRIT PETITION NO.13118 OF 2018

Kisan s/o Yadav Naigurde,
Age : 67 years,
Occupation : Agriculture,
R/o Vitkheda, Tq.Kannad,
District Aurangabad.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
Through the Special Land
Acquisition Officer,
Jayakwadi Project-1,
Collector Office,
Aurangabad.
- 2 The Executive Engineer,
Minor Irrigation Division No.1,
Aurangabad.

...RESPONDENT

...
Advocate for the Petitioner : Shri Bide Dnyaneshwar A.
AGP for Respondent 1 : Shri N.T.Bhagat.
Advocate for Respondent 2 : Shri S.W.Munde.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 18th January, 2019

Oral Judgment :

- 1 Rule. Rule made returnable forthwith and by the consent of
the parties, heard finally.

2 On 14.01.2019, this Court had passed the following order :-

- "1. Copy of the apology dated 15/12/2018 tendered before the L.A.R. Court is placed on record, which is marked as Exhibit X for identification.
2. I find that the petitioner failed to lead evidence in the LAR proceedings from 17/07/2014 till 26/04/2016. Hence his evidence was closed. As such, the petitioner could be deprived of interest on the compensation amount for the period August 2014 till January 2019, for the delay caused by him.
3. Learned AGP seeks a short accommodation to take instructions from the respondents.
4. Stand over to 17/01/2019 for "passing orders".

3 The learned AGP appearing on behalf of Respondent No.1/State and the learned Advocate for Respondent No.2 submit that this petition deserves to be dismissed.

4 I find that the Petitioner, who is an agriculturist and who has lost his portion of the land in acquisition, can be penalized by depriving him of the interest amount on the enhanced compensation if any, for the period during which he has defaulted in leading evidence. A harsh order dismissing his petition ought not to be passed in the peculiar facts and circumstances of this case.

5 The learned Advocate for the Petitioner submits, on instructions, that he would not claim interest on the enhanced compensation, if granted, for the period August, 2014 till January, 2019.

6 In view of the above, this Writ Petition can be entertained and

the Petitioner can be granted an opportunity to lead evidence.

7 It is submitted by the Petitioner that he had entered an application Exhibit 21 seeking leave to amend his claim as the rates of compensation for fruit bearing trees were not properly calculated. By the impugned order dated 13.11.2018, the Trial Court has rejected Exhibit 21 as the evidence of the Petitioner is closed and the Respondents have also concluded their evidence.

8 Despite the strenuous objections of the learned Advocates for the respective Respondents, I find that the application for amendment can be entertained as the LAR proceedings are the last opportunity available to such agriculturist. He has several fruit bearing trees and his claim for enhanced compensation will be ignored if the amendment is not permitted, thereby, causing an irreparable harm to him.

9 In view of the above, this Writ Petition is partly allowed. The impugned order dated 26.04.2016 is quashed and set aside. Similarly, the impugned order dated 13.11.2018 is quashed and set aside and the application Exhibit 21 is allowed with the following directions :-

- (a) The litigating sides shall appear before the LAR Court at Aurangabad in LAR No.133/2010 on 08.02.2019 at 11:00 am.
- (b) The Petitioner/ claimant shall amend the LAR claim in the light of the Exhibit 21 and would also enter a freshly typed

claim copy post amendment on the same date. He shall also deposit the additional/ deficit court fees on 08.02.2019 itself.

- (c) The LAR Court is at liberty to frame additional issues, if deemed appropriate.
- (d) The Petitioner/ claimant would enter his affidavit in lieu of examination-in-chief on 08.02.2019.
- (e) The respondents in the LAR proceedings are at liberty to file an additional affidavit with regard to the amended claim on or before 08.02.2019.
- (f) The LAR Court would then proceed to decide the said proceedings in accordance with the procedure laid down in law and expeditiously considering that the claim is of 2010.
- (g) In the event, the LAR Court grants the enhanced compensation to the Petitioner/ claimant, he shall be deprived of the interest component on the said enhanced amount for the period of August, 2014 till January, 2019.

10 Rule is made partly absolute in the above terms.