

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.431 OF 2018**

Kadar Nabi Shaikh	...Applicant
Versus	
The Executive Engineer and Ors.	...Respondents
WITH	
CIVIL REVISION APPLICATION NO.433 OF 2018	
Bhagwan Dattu Bhosale and Ors.	...Applicants
Versus	
The Executive Engineer and Ors.	...Respondents
WITH	
CIVIL REVISION APPLICATION NO.434 OF 2018	
Dhondiram Shrirang Bhosale and Ors.	...Applicants
Versus	
The Executive Engineer and Ors.	...Respondents
WITH	
CIVIL REVISION APPLICATION NO.436 OF 2018	
Nanaso Vishnu Bhosale and Ors.	...Applicants
Versus	
The Executive Engineer and Ors.	...Respondents
WITH	
CIVIL REVISION APPLICATION NO.437 OF 2018	
Vijay Appasaheb Bhosale	...Applicant
Versus	
The Executive Engineer and Ors.	...Respondents
WITH	
CIVIL REVISION APPLICATION NO.438 OF 2018	
Chandrakant Jagannath Bhosale and Ors.	...Applicants
Versus	
The Executive Engineer and Ors.	...Respondents
WITH	
CIVIL REVISION APPLICATION NO.439 OF 2018	
Shivaji Namdev Bhosale and Anr.	...Applicants
Versus	
The Executive Engineer and Ors.	...Respondents

WITH

CIVIL REVISION APPLICATION NO.440 OF 2018

Mohammad Hussai Adam Shaikh ...Applicant
Versus
The Executive Engineer and Ors. ...Respondents

**WITH
CIVIL REVISION APPLICATION NO.441 OF 2018**

Ramchandra Bhagwan Bhosale and
Ors. ...Applicants
Versus
The Executive Engineer and Ors. ...Respondents

**WITH
CIVIL REVISION APPLICATION NO.484 OF 2018**

Jagu Rama Bhosale ...Applicant
Versus
The Executive Engineer and Ors. ...Respondents

**WITH
CIVIL REVISION APPLICATION NO.540 OF 2018**

Abaso Namdev Mandale ...Applicant
Versus
The Executive Engineer and Ors. ...Respondents

**WITH
CIVIL REVISION APPLICATION NO.637 OF 2018**

Shivaji Ramchandra Bhosale and
Ors. ...Applicants
Versus
The Executive Engineer and Ors. ...Respondents

.....

Mr. Mahendra B. Deshmukh for the Applicants.
Mr. A.R. Patil, AGP for the Respondent Nos.2 and 3.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 16th JANUARY, 2019.

P.C.:-

The Applicants herein have challenged the order dated 6th April, 2018 whereby the learned Deputy Collector, Land Acquisition No.7, Sangli has rejected the application to refer the dispute under Section 18 of the Land Acquisition Act, 1894.

2. Heard the learned counsel for the respective parties.

3. The land of the Applicants was acquired by the Respondents for the purpose of Tembu Irrigation Project, Ghanand to Hivtad Canal. The Applicants state that the possession of the land was taken prior to 1997, however, notification came to be issued on 25.11.2013. It is not in dispute that the award in said case was passed on 31st December, 2015 i.e. after the new Act came into force. The Applicants, after they were served with notice under Section 12(2) of the Land Acquisition Act, filed an application under Section 18 seeking enhanced compensation. The Land Acquisition Officer declined to make a reference under Section 18 on the ground that the Applicants have not paid proper court fee and that they have not annexed the copy of the final award with the application and that they had not accepted the amount without lodging any protest.

4. The learned AGP concedes that the Land Acquisition Officer could not have refused to make a reference under Section 18 on the

aforestated grounds. The learned AGP contends that though the acquisition proceedings had commenced under the Land Acquisition Act, 1894, the award has been passed under Sections 26 to 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and in such circumstances, the question whether the reference should be under the Old Act or New Act is referred to the larger Bench.

5. Under the circumstances, the impugned order dated 6th April, 2018 is set aside. The Land Acquisition Officer is directed to decide the matter afresh after hearing the parties. Since the award has been passed under the New Act, the Land Acquisition Officer shall also consider whether the reference can be made under the Old Act or under the provisions of the New Act.

6. The Applications stand disposed of accordingly.

(SMT. ANUJA PRABHUDESSAI, J.)