

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14298 OF 2018

Jalinder Sidram Gaikwad

.....Petitioner.

Vs.

State of Maharashtra & Anr.

.....Respondents.

Mr. R.S. Alange for the Petitioner.

Mr. P.P. Pujari AGP for the Respondent Nos. 1 to 3-State.

CORAM : A. S. GADKARI, J.

DATE : 11th OCTOBER, 2019.

P.C.:-

Rule. Rule made returnable forthwith.

By consent of the parties, taken up for final hearing.

2 The present Petition takes exception to the Order dated 27th November, 2015 passed by the Respondent No. 2, thereby rejecting the Application preferred by the Applicant for re-determination of the amount of compensation, on the basis of the award of the Court as contemplated under Section 28A of the Land Acquisition Act, 1894 (for short "*the said Act*") on the ground that, the said Application was

not preferred within a period of limitation, as prescribed under Section 28A of the said Act.

3 Heard Shri. Alange, the learned counsel for the Petitioner and the learned AGP for the Respondent State. Perused the record.

4 The record indicates that, an award was passed by the National Lokadalat held at Solapur in Land Acquisition Reference No. 80 of 2013 on 23rd November, 2013. The Petitioner preferred an Application under Section 28A of the said Act on 1st April, 2014. The record further indicates that, the Petitioner had filed an Application for getting a certified copy of the said Award on 16th January, 2014 and the same was received by him on 27th February, 2014. As per the proviso to Section 28A of the said Act, the time required for obtaining the copy of Award has to be excluded for calculating the period of limitation for filing the Application under Section 28A.

5 After taking into consideration the aforestated chronology, it is thus apparent that, the Petitioner had filed the said Application under Section 28A on the 84th day and therefore, the said Application was well within the period of limitation.

 The learned AGP for the Respondent-State fairly conceded to the said fact.

6 In view thereof, the impugned Order dated 27th November, 2015 passed by the Respondent No.2 is hereby quashed and set aside and the Application filed by the Petitioner under Section 28A of the said Act is restored to the file of Respondent No.2 for its consideration afresh on its own merits as per the provisions of law.

Petition is allowed in the aforesaid terms.

(A.S. GADKARI, J.)