

BDP-SPS

Bharat
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 746 OF 2019**

Dada @ Ramcahndra
Bhimrao Jagdale (died),
Through his Legal Heirs
Uttreshwar Dada @ Ramchandra
Jagdale and Another

.... Petitioners.

V/s

The State of Maharashtra and Others

..... Respondents.

**ALONGWITH
WRIT PETITION NO.745 OF 2019**

Tukaram Maruti Patil

..... Petitioner.

V/s

The State of Maharashtra and Others

..... Respondents.

**ALONGWITH
WRIT PETITION NO.747 OF 2019**

Vitthal Ghanshyam Jagdale

..... Petitioner.

V/s

The State of Maharashtra and Others

..... Respondents.

ALONGWITH
WRIT PETITION NO.922 OF 2019

Ashruba Vishnudas Jagdale & Anr. Petitioners.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4412 OF 2019

Dattu Dagadu Gosavi Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4413 OF 2019

Bajrang MahadeoTakale (Died)
Through his Legal Heirs
1/A. Yamuna Bajrang Takale & Ors Petitioners.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4414 OF 2019

Pandharinath Narayan Miskin Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4415 OF 2019

Gokul Uttam Gosavi Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4416 OF 2019

Jalindar Sadashiv Neel Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4417 OF 2019

Subhash Patalu Rokade & Others Petitioners.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4418 OF 2019

Babasaheb Sarjerao Jagdale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4419 OF 2019

Rajaram Bhimrao Jagdale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4420 OF 2019

Ramkrushna Baliram Jagdale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4421 OF 2019

Eknath s/o Bhagwan Singh Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4422 OF 2019

Namdeo Ganpat @ Ganpati Gade Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4423 OF 2019

Krushna Bandu Bhosale (Died)
Through his Legal Heirs,
1.1 Popat Krushna Bhosale
and Others Petitioners.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4424 OF 2019

Bhanudas Rama Bhosale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4425 OF 2019

Yedubai Trimbak Jagdale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4426 OF 2019

Nivruthi Neminath Lohar & Others Petitioners.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4427 OF 2019

Pandurang Maruti Bhil Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4428 OF 2019

Baban Bhimrao Jagdale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4429 OF 2019

Dinkar Ranghnath Bhosale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4430 OF 2019

Dnyandeo Babu Bhosale (died)
Through his Lrs
1] Dattatray Dnyandeo Bhosale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4431 OF 2019

Arjun Ganpat Jagdale (Died)
Through his Legal Heirs
1. Siddheshwar Arjun Jagdale & Ors Petitioners.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4432 OF 2019

Janu Ganpat Jagdale (Died)

Through his Lrs

1. Saraswati Ajinath Bhosale and Anr. Petitioners.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4433 OF 2019

Sidheshwar Arjun Jagdale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4434 OF 2019

Sarjerao Prabhu Bhosale & Others Petitioners.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4435 OF 2019

Shrihari Rangnath Bhosale Petitioner.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.4436 OF 2019

Jyotiram Maruti Barade (Died)
Through his Legal Heirs
1/A. Ghaninath Jyotiram Barade
and Others Petitioners.

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO.12075 OF 2018

Vishnu Sadashiv Salve Petitioner

V/s

The State of Maharashtra and Others Respondents.

ALONGWITH
WRIT PETITION NO. 14657 OF 2018

Vithal Balbhim Neel Petitioner

V/s

The State of Maharashtra and Others Respondents.

Mr. Abhijit More I/b Mr. Govind B. Solanke for the Petitioners.

Mr. Y.D. Patil, AGP for Respondents-State in Writ Petition Nos.746/2019, 745/2019, 747/2019, 922/2019, 4412/2019.

Mr. S.H. Kankal, AGP for Respondents-State in Writ Petition Nos.4413/2019, 4414/2019, 4415/2019, 4416/2019, 4417/2019, 4418/2019.

Mr. P.P. Pujari, AGP for Respondents-State in Writ Petition Nos.4419/2019, 4420/2019, 4421/2019, 4422/2019, 4423/2019

Mr. C.D. Mali, AGP for Respondents-State in Writ Petition Nos.4424-2019, 4425/2019, 4426/2019, 4427/2019, 4428/2019.

Mr. R.P. Kadam, AGP for Respondents State in Writ Petition Nos.4429/2019, 4430/2019, 4431/2019, 4432/2019, 4433/2019.

Mr. S.L. Babar, AGP for Respondents-State in Writ Petition Nos.4434/2019, 4435/2019, 4436/2019, 12075/2018, 14657/2018.

CORAM: NITIN W. SAMBRE, J.

DATE: 8th July, 2019

P.C.:-

1] Heard by consent of parties. All the above Petitions are taken up for final disposal at the admission stage.

2] In all these Petitions, Petitioners claim that their land was acquired for some public project pursuant to the provisions of the Land Acquisition Act, 1894.

3] Petitioners invoked the provisions of Section 28-A of the said Act, relying on the enhanced compensation granted by the Reference Court in exercise of powers under Section 18 of the said Act. The applications preferred under Section 28-A came to be rejected by the orders impugned passed by the Sub-Divisional Officer, who exercises powers of Collector as prescribed under the said Section. Being aggrieved, the present Petitions.

4] The submissions made by the learned Counsel for the Petitioners are, the reasons which are formed to be the basis for rejection of applications for grant of enhanced compensation pursuant to the provisions of Section 28-A of the Act, are not germane to the cause. According to him, the learned Sub-Divisional Officer/Deputy Collector, while passing the orders impugned, has directed the Petitioners to produce certain documents, which were not within the

reach of the Petitioners. He has invited attention of this Court to the provisions of sub-section (2) of Section 28-A of the Act, so as to claim that the authority has, in perverse manner, passed the orders impugned. As such, according to him, Petitions are liable to be allowed with directions to the Sub-Divisional Officer to decide the applications preferred by the Petitioners in accordance with the very scheme and object of Section 28-A of the said Act.

5] While defending the orders impugned, the learned AGPs would urge that the Petitioners have failed to comply with reasonable requirements by producing documents and evidence, as were directed to be put-forth by the said authority. According to him, reasons mentioned in the impugned orders for rejection of applications made under Section 28-A of the Act are in tune with the statutory provisions. As such, sought dismissal of the Petitions.

6] Having dwelled on the controversy, as is sought to be put-forth before this court, what is required to be noticed is, sub-section (2) of Section 28-A provides that, on receipt of an application filed under sub-section (2) of Section 28-A, the Collector shall conduct an inquiry

by giving notices to all the parties, which includes land owner and the acquiring body. Admittedly, in the present case, no notice appears to have been issued to the acquiring body and Respondent-authority has proceeded to analyze case of the Petitioners without having regard to the requirement of sub-section (2) of Section 28-A of the Act. It appears that the authority has called upon the Petitioners to produce on record such documents viz. Certificate from the State Government or Government Lawyer, indicating whether an appeal has been preferred against the Award delivered under Section 18 of the Act. Apart from above, the said documents were demanded by the authority from the Petitioners, though the other side was not put to notice and as such, there was no occasion to dispute the same.

7] Prima facie, it appears that the Respondent-authority, in a perverse and most arbitrary manner, has proceeded to pass the order impugned.

8] That being so, the orders impugned, rejecting the applications of the Petitioners preferred under Section 28-A of the Act, are not sustainable and liable to be quashed and set aside. Applications

moved by the Petitioners for grant of enhanced compensation pursuant to the provisions of Section 28-A of the Act are directed to be decided by the said authority in accordance with the very scheme of the said provision.

9] All the above Petitions are partly allowed in the aforesaid terms.

(NITIN W. SAMBRE, J.)