

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Civil Revision Application No.50/2019
(Lilabai Ganvir Vs. The Collector) AND
Civil Revision Application No.49/2019
(Shakuntalabai Ganvir Vs. The Collector) AND
Civil Revision Application No.51/2019
(Udebhan Ganvir Vs. The Collector) AND
Civil Revision Application No.52/2019
(Nanda Tirpude Vs. The Collector) AND

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. K.S. Motwani, Advocate for petitioner
Smt. Kalyani Deshpande, AGP for respondents No.1 and 2.

CORAM : MANISH PITALE, J.

DATED : DECEMBER 11, 2019

These four revision applications raise grievance of the applicants that despite they having applied to the Collector under Section 18 of the Land Acquisition Act, 1894, seeking enhancement of compensation payable to them for acquisition of land, no action in that regard was taken for a long period of time due to which they were required to file writ petitions in this Court. It was before this Court that the applicants were finally made aware about the orders passed as far back in February 2004, rejecting their applications under Section 18 of the said Act on the ground of non-compliance of section 31(2) of the said act.

2. A perusal of section 31(2) of the said Act show that no person would be entitled to make an application under Section 18 of the said Act, who has received amount without any protest as to the quantum of compensation. It is the case of the applicants that firstly, such orders ought to have been communicated to them immediately, which was not done in the present case and secondly, that they had lodged oral protest while collecting the amount of compensation granted to them in the Award passed by the Land Acquisition Officer. It was submitted that written protest while receiving such amount of compensation was not the requirement of Section 31(2) of the said Act and oral protest satisfied the statutory requirement. On this basis, the applicants submitted that the impugned order deserved to be set aside and their cases were required to be considered on merits by the Reference Court.

3. The said revision applications were resisted by the non-applicant state authorities contending that the material on record, particularly orders passed by the Collector in February 2004, indicated that apart from violation of Section 31(2) of the said Act, there was doubt whether reference applications under Section 18 of the Act, were within limitation. Since the operative portion of the order passed against the applicants relied only upon violation of Section 31(2)

of the said Act, this Court is called upon to examine validity of the said reason given by the Collector while rejecting applications under Section 18 of the said Act, preferred by the applicants herein.

4. The question that arises in the present case is no more *res integra*, as it is covered by judgment of this Court in the case of **Amol Rambhau Arjun Vs. State of Maharashtra and others, 2000(4) Mh.L.J. 302**, wherein this Court has categorically laid down that Section 31(2) of the said Act does not require written protest to be lodged by the claimants and that oral protest is enough to satisfy the statutory requirement. In the said judgment this court has held as follows :

“Proviso 2 to section 31 bars the person who has received the amount other than under protest from making any application of reference under section 18. The said provision does not lay down the mode and manner in which the protest is to be made while accepting the compensation. It does not say that the protest by the claimant must be necessarily in writing. The claimant may receive the amount of compensation under protest orally and the oral protest while receiving the compensation shall not disentitle the claimant from making any application for reference under section 18. The provision covers the protest either made in writing or orally.”

5. Thus, it becomes clear that the applicants are justified in contending that the oral protest lodged by them while collecting amount of compensation

satisfied the requirement of Section 31(2) of the said Act and they were entitled to maintain the applications under Section 18 of the said Act. Therefore, it becomes clear that the impugned orders dated 11/02/2004, passed by the Special Land Acquisition Officer, communicated to the applicants in January 2018, deserve to be set aside.

6. Accordingly, the applications are allowed and the impugned orders are quashed and set aside. The non-applicants / respondents No.1 shall now take follow up action for the reference applications of the applicants herein to be taken to their logical end.

7. The applications are disposed of in above terms.

8. Since there is already inordinate delay in proper consideration of the applications moved by the applicants under Section 18 of the said Act, respondent No.1 is directed to take further action expeditiously.

JUDGE