

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8416 OF 2018

01 Maruti Madhav Patil, died,
through L.R.:
Govind Maruti Patil,
age: 57 years, Occ: Agri.;

02 Gopal Babarao Patil,
age: 63 years, Occ: Agri.;

Both R/o Toramba, Tq.Lohara,
District Osmanabad.

Petitioners

Versus

01 The State of Maharashtra,
through the Collector,
Collector Office,
Solapur-Vadodara Highway,
Tq. & Dist. Osmanabad.

02 The Special Land Acquisition Officer
No.1 and 2, Sub Divisional Magistrate
Office, Omerga, Tq. Omerga,
District Osmanabad.

Respondents

Mr.V.V.Kabade, advocate for the petitioners.
Mr.S.K.Tambe, AGP for the respondents.

CORAM : ROHIT B.DEO, J.

DATE : 02/01/2020

ORAL JUDGMENT :

1 Rule. Rule made returnable forthwith and heard finally
by consent of learned Counsel for respective parties.

2 This petition is entertained despite the existence of
statutory remedy, in view of the glaring facts.

3 The petitioners are aggrieved by the order dated
25.10.2017, rendered by the Sub Divisional Officer and Land
Acquisition Officer, Omerga, under which the application preferred
by the petitioners under Section 28-A of the Land Acquisition Act,
1894, came to be rejected.

4 Perusal of the order impugned reveals that the rejection
is not on merits. It appears that the petitioners, inadvertently and
inaccurately referred to Reference Case No.240 of 2005 to base
their claim. As a fact, the petitioners ought to have referred to and
relied upon the judgment in Reference Case No.238 of 2005. The
authority, however, noted that Reference Case No.240 of 2005 is
dismissed by the Civil Court and on this short ground, rejected the
application under Section 28-A of the Land Acquisition Act, 1894.

5 I do not consider it appropriate to compel the petitioners to undergo exercise of preferring an appeal.

6 Writ Petition is allowed. The order impugned is quashed and set aside. Section 28-A application is remitted to Respondent No.2 who shall give an opportunity to the petitioners to amend the application appropriately and who shall thereafter decide the application within eight weeks from the date of appearance of the petitioners.

7 The petitioners shall appear before the Respondent No.2 on 20th January, 2020.

8 Rule is made absolute in above terms. No costs.

(ROHIT B.DEO)
JUDGE