

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.409 OF 2021

Malayyappa s/o Mahalappa Irkar ... **APPELLANT**

VERSUS

The State of Maharashtra & ors. ... **RESPONDENTS**

.....
Mr. A.D. Sonkawade, Advocate for appellant
Mr. A.B. Chate, A.G.P. for respondents
.....

CORAM : R. G. AVACHAT, J.

DATE : 24th AUGUST, 2021

PER COURT :

Heard. Perused the findings recorded by the Reference Court, holding the Land Acquisition Reference to have not been filed within a period of six months. The findings recorded by the Tribunal are as under :

“It is because there is nothing on record to show that the claimant was present or represented himself before the Collector at the time when he made his award. Secondly, there is also no evidence on record to show that the Collector has issued the notice u/s.12(2) of L.A. Act to the claimant and it was served upon him. Therefore the claimant had an opportunity to file this reference within the

period of six months from the date of award which is passed on 22/12/1993. It means he ought to have presented this reference up to 22/6/1993 however in fact it is made on 28/2/1997. It is the case of the claimant that he came to know about the passing of award for the first time on 6/10/1995 when he appeared in the office of L.A.O. to withdraw the compensation awarded by Collector.”

2. It has specifically been averred by the claimant that he got knowledge of the award on 6/10/1995 when he appeared in the office of Land Acquisition Officer to withdraw the amount of compensation. Admittedly, there is no evidence to indicate that the copy of the award was served to the appellant along with notice under Section 12(2) of the Land Acquisition act. It appears that, the learned Reference Court has observed that, the appellant ought to have filed the reference on or before 8/4/1996. According to it, the period of limitation commenced on 9/10/1995 when the appellant – claimant received the amount of compensation. The fact is, however, other way round. The Land Acquisition Reference is not to be directly filed before the Civil Court. The same is required to be submitted to the concerned Special Land Acquisition Officer, who in turn, submits it to the Court concerned. A copy of the Reference made by the appellant herein has been placed on record. There is an endorsement

under the signature of Land Acquisition Officer to indicate that it was received by its office on 15/11/1995. The same indicates that, the reference was filed within a period of five weeks from the date the appellant received the amount of compensation on 6/10/1995. As such, the findings recorded by the Reference Court that the Reference was barred by limitation is unsustainable. The same, therefore, needs to be interfered with.

3. In the result, the appeal succeeds in terms of the following order :

ORDER

- (i) The appeal is allowed. The order dated 6/11/2015, passed by Civil Judge, Senior Division, Udgir in Land Acquisition Reference No.252/2012 is hereby set aside. The matter is remanded back to the Reference Court to decide it on its merits, without advertng to the issue of limitation again.
- (ii) The appeal has been preferred after a long span of time. The impugned order is dated 6/11/2015 and the appeal was filed in the month of March 2020. As such, there is considerable delay in preferring the

appeal. In the fitness of things, the claimant shall not be entitled to interest on the amount of enhanced compensation, if any, from the date of award i.e. 6/11/2015 to the date of presentation of this appeal i.e. 11/3/2020.

(R. G. AVACHAT)
JUDGE

fmp/-