

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

WRIT PETITION NO.8296 OF 2020

Nagnath S/o. Bhaguram Kamble
Age: 50 years, Occu.: Agril.
R/o.Kalkoti, Tq.Chakur, Dist.Latur. ..Petitioner

VERSUS

1. The State of Maharashtra
Through the Collector, Latur.
2. The Special Land Acquisition Officer,
Swarna Project, Latur.
3. The Executive Engineer,
Minor Irrigation Division at Latur. ..Respondents

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Advocate for Petitioner : Shri Gajanan K. Sontakke
AGP for Respondent Nos.1 & 2 : Shri A.A.Jagatkar
Advocate for Respondent No.3 : Shri S.G.Sangle
...

CORAM : M.G.SEWLIKAR, J.

DATE: 5th August, 2021

ORAL JUDGMENT:-

1. Rule. Rule made returnable forthwith.
2. Heard finally with consent of the parties.
3. Challenge in this writ petition is to the Judgment and order dated 8th January, 2014 passed by the Reference Court in LAR

No.1 of 2003 whereby reference came to be dismissed as petitioner failed to adduce any evidence in the Reference Court.

4. Facts leading to this petition are that land of the petitioner Gut No.47 ad-measuring 72R at village Kalkoti, Tq.Chakur, Dist.Latur has been acquired. Compensation was awarded to the petitioner. Since the petitioner was dissatisfied with the amount of compensation, reference was made under Section 18 of the Land Acquisition Act, 1894 to the Court of Civil Judge, Senior Division, Latur.

5. During the pendency of the reference, petitioner did not adduce any evidence despite giving ample opportunities. Therefore, Reference Court forfeited the right of petitioner to adduce evidence. Thereafter also, petitioner did not lead evidence before the Reference Court as a result of which Reference Court dismissed the reference for failure to lead evidence by the petitioner. The Reference Court considered the material collected by the Special Land Acquisition Officer (SLAO) and dismissed the reference. This order is impugned in this petition.

6. Shri G.K.Sontakke, learned counsel for the petitioner submitted that the petitioner could not adduce evidence before the learned Reference Court because of the circumstances beyond his control. He submits that entire land of the petitioner has been acquired and he has been rendered landless. He has, therefore, prayed for allowing the petition.

7. Shri A.A.Jagatkar, learned AGP for respondent Nos.1 and 2-State and Shri S.G.Sangle, learned counsel for respondent No.3-Acquiring Body submitted that evidence of the petitioner was closed on 30th January, 2012. Thereafter also petitioner did not adduce any evidence as a result of which, the Reference Court was left with no other alternative than to dismiss the reference.

8. Shri Jagatkar, learned AGP for respondent Nos.1 and 2-State and Shri Sangle, learned counsel for respondent No.3 submitted that if this Court is inclined to allow the petition, it should be done only on condition that the petitioner will not be entitled to interest from the date of dismissal of the reference till the date of order of this Court in case the Reference Court enhances the compensation.

9. Learned Reference Court has decided the reference taking into consideration the material collected by the SLAO, which is

impermissible in view of the Judgment of the Hon'ble Supreme Court in the case of ***Khazan Singh vs. Union of India [2002(2) SCC 242]***.

10. Considering the fact that land of the petitioner has been acquired and according to the submission made by the learned counsel for the petitioner he has become landless, I deem it appropriate to grant one more opportunity to the petitioner. Shri Sontakke, learned counsel for the petitioner undertakes that he will adduce the evidence before the Reference Court and will endeavour to assist the Court in disposal of the reference within a specified period.

11. Shri Jagatkar, learned AGP for respondent Nos.1 and 2 and Shri Sangle, learned counsel for respondent No.3 placed reliance on the case of ***Ramanlal Deochand Shah vs. State of Maharashtra and Another [AIR 2013 SC 3452]*** in support of their contention that the petitioner will not be permitted to claim interest from the date of Judgment of the Reference Court till the date of order of this Court.

12. In paragraph No.14 of the Judgment of ***Ramanlal Deochand Shah*** (supra) following observations are made;

“14. The failure or the omission to lead evidence to prove the claim appears in the above context to be a case of some kind of misconception about the legal requirement as to evidence needed to prove cases of enhancement of compensation. We do not in that view see any reason to deny another opportunity to the landowners to prove their cases by adducing evidence in support of their claim for enhancement. Since, however, this opportunity is being granted ex debito justitiae, we deem it fit to direct that if the Reference Court eventually comes to the conclusion that a higher amount was due and payable to the appellant-owners, such higher amount including solatium due thereon would not earn interest for the period between the date of the judgment of the Reference Court and the date of this order. These appeals are with that direction allowed, the judgments and orders impugned in the same modified to the extent that while the enhancement order by the Reference Court shall stand set aside, the matters, shall stand remanded to the Reference Court for a fresh disposal in accordance with law after giving to the landowners opportunity to lead evidence in support of their claims for higher compensation. No costs.”

13. Shri Sangle, learned counsel for respondent No.3 submitted that this Court in First Appeal No.703 of 1998, relying on the Judgment of the Hon'ble Supreme Court in the case of **Ramanlal Deochand Shah** (supra) has taken a view that the claimant shall not be entitled to interest on enhanced compensation for the period between the date of Judgment of

the Reference Court and the date of order of this Court.

I am inclined to take similar view.

14. In view of the observations made by the Hon'ble Supreme Court in the case of ***Ramanlal Deochand Shah*** (supra), the petitioner will not be entitled to interest from the date of the Judgment of the Reference Court till the date of this order in case amount of compensation is enhanced by the Reference Court. In this view of the matter, I deem it appropriate to pass the following order:

ORDER

- I) Writ Petition is allowed.
- II) The Judgment and order dated 8th January, 2014 passed by the Extra Joint Civil Judge, Senior Division, District Latur in LAR No.1 of 2003 is set aside.
- III) LAR No.1 of 2003 is restored to file.
- IV) The Reference Court shall permit the petitioner to adduce evidence.
- V) The Reference Court shall also permit the State and Acquiring Body to adduce evidence.

VI) Petitioner shall appear before the concerned Reference Court on 13th September, 2021.

VII) The Reference Court shall dispose the LAR within a period of six months from the date of receipt of the writ by the Reference Court.

VIII) Petitioner will not be entitled to interest from the date of Judgment of the Reference Court i.e. 8th January, 2014 till the date of this order i.e. 5th August, 2021, in case Reference Court enhances the compensation.

IX) Rule is made absolute in the above terms.

(M.G.SEWLIKAR)
JUDGE

SPT