

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

WRIT PETITION NO.6945 of 2020

Chandrakant s/o. Manik Shinde ..Petitioner

Vs.

The State of Maharashtra
and ors. ..Respondents

**AND
WRIT PETITION NO.6946 of 2020**

Sadashiv s/o. Waman Shinde ..Petitioners

Vs.

The State of Maharashtra
and ors. ..Respondents

**AND
WRIT PETITION NO.6947 of 2020**

Narshing s/o. Bhimrao Somwase
(died), through L.Rs.

1A) Kamalbai w/o. Narshing Somwase,
Age : 70 years, Occ. Household,
r/o. Dahitana, Tq.Tuljapur,
Dist. Osmanabad
and ors.

..Petitioners

Vs.

The State of Maharashtra,
Through Collector,
Osmanabad and ors. ..Respondents

**AND
WRIT PETITION NO.6949 of 2020**

Sudhamati w/o. Govind Dhumal (died)
Through LRs.

1. Ashok s/o. Govind Dhumal
Age : 65 years, Occ. Agri.,
r/o. Khandala, Tq.Tuljapur,
Dist. Osmanabad
and others ..Petitioners

Vs.

The State of Maharashtra
and ors. ..Respondents

**AND
WRIT PETITION NO.6948 OF 2020**

Mallikarjun s/o. Nagnath Lakde ..Petitioner

Vs.

The State of Maharashtra and ors. ..Respondents

**AND
WRIT PETITION NO.6950 OF 2020**

Sidhabai @ Sitabai Rama Anbule
(died), through L.Rs.

Jijabai w/o. Gajendra Lomte,
age : 48 years, Occ. Household,
r/o. Ruibhar
Tq. and Dist. Oamanabad ..Petitioners

VS.

The State of Maharashtra and ors. ..Respondents

**AND
WRIT PETITION NO.2538 OF 2020**

Digamber Namdeo Gaikwad ..Petitioners

Vs.

The State of Maharashtra and ors. ..Respondents

**AND
WRIT PETITION NO.3616 OF 2020**

Swarupchand s/o. Chotiram Chandwade ..Petitioners

Vs.

The State of Maharashtra and ors. ..Respondents

Mr.R.V.Naiknavare, Advocate for petitioners in W.P. Nos.6945, 6946, 6947, 6949, 6948, 6950 of 2020

Mrs.Maya Jamdhade, Advocate for petitioners in W.P. No.2538 and 3616 of 2020

Mr.S.N.Morampalle and A.B.Chate, AGP for State in respective petitions

Mr.A.S.Shelke, Advocate for respondent no.3 in W.P. No.2538 of 2020

Mrs.S.G.Chincholkar, Advocate for respondent no.2 in W.P. No.3616 of 2020

**CORAM : R.G. AVACHAT, J.
DATE : JANUARY 21 , 2021**

FINAL ORDER :-

All these Writ Petitions are decided by this common order since common questions of facts and law arise therein.

2. The challenge in these Writ Petitions is to the orders, whereby land acquisition references preferred by the petitioners have either been dismissed/rejected for want of evidence or returned back to the concerned Land Acquisition Officers. The details thereof are given in tabular form, as under:-

WRIT PETITION NO.	L.A.R. No.	Date of order	Court which passed the order	Name of petitioner/s
6945/2020	1598/2004	09.08.2007 (Ref. Petition rejected)	District Judge, Omerga	Chandrakant Manik Shinde
6946/2020	1576/2004	10.08.2007 (Ref. Petition rejected)	District Judge, Omerga	Sadashiv s/o. Waman Shinde
6947/2020	672/2007	19.04.2013 (Ref. Petition sent back to to LAO)	2 nd Jt. Civil Judge, Senior Division, Osmanabad	Narsing s/o. Bhimrao Somwase and anr.
6948/2020	129/2005 (New) 399/1997 (Old)	30.04.2009 (Ref. Petition rejected)	Jt. Civil Judge, Senior Division, Umerga	Mallikarjun Nagnath Lakde

6949/2020	417/2010	08.10.2015 (Ref. Petition sent back to to LAO)	3 rd Jt. Civil Judge, Senior Division, Osmanabad	Sow. Sudhamati w/ o. Govind Dhumal
6950/2020	317/1999	18.06.2012 (Ref. Disposed of)	Civil Judge, Senior Division, Osmanabad	Sidhabai @ Sitabai w/o. Rama Anbhule
2538/2020	253/2007	28.11.2018 (Ref. Dismissed)	Civil Judge, Senior Division, Nanded	Digambar s/o. Namdeo Gaikwad
3616/2020	77/2010 (New) 648/2005 (Old)	23.12.2016 (Dismissed)	Civil Judge, Senior Division, Vaijapur	Swarupchand Chotiram Chandwade

3. I have heard Mr.Naiknavare and Mrs.Jamdhade, learned counsel appearing for the petitioners in the respective petitions. Learned counsel would submit that the petitioners were poor agriculturists. Their properties came to be acquired under the Land Acquisition Act. The petitioners have been paid inadequate compensation. The petitioners had, therefore, preferred reference/s for enhancement of compensation. The Advocates appearing on their behalf before the respective courts did not inform the petitioners the progress of the

matters. Some of the land references came to be transferred from Osmanabad to Omerga. The Courts concerned either dismissed/rejected six LARs (stated in tabular form herein above) or returned two LARs (stated in tabular form herein above) to the concerned Land Acquisition Officers. The same has caused grave injustice to petitioners. After having learnt about such orders, the petitioners have moved these Writ Petitions.

4. Learned counsel for the petitioners relied on the judgments and orders passed by this court in following Writ Petitions:-

1) Writ Petition No.12795 of 2019 (Walmik s/o. Trimbak Tupe Vs. State of Maharashtra and anr.) and other connected petitions decided on 17.01.2020);

2) Writ Petition No.3572 of 2020 (Narshing Vithoba Jagtap Vs. State of Maharashtra and ors.) and other connected petitions decided on 04.03.2020.

According to the learned counsel, the petitioners would lead evidence in their respective LARs. They be given an

opportunity of hearing. LARs could not have been disposed of by the courts concerned observing the petitioners to have been failed to adduce evidence. Learned counsel, therefore, ultimately, urged for setting aside the impugned orders.

5. Learned AGP would, on the other hand, submit that the petitioners were grossly negligent. There is delay of over 6-7 years in some of the matters to approach this Court. If the Court is pleased to allow the petitions, the petitioners may not be held to be entitled for interest for the period from the date of dismissal/return of LARs, to the date of filing of these Writ Petitions.

6. In the case of **Narayan Deorao Gore (died) through L.Rs. Vs. State of Maharashtra, 2011(3)Mh.L.J. 592**, this Court has held that the LARs should be decided on merits. The claimant must be given sufficient and full opportunity to put forth his case. The claim need not be discarded on technicality of not adducing documentary evidence.

7. In the similar facts and circumstances of the cases referred to herein above (WP 12795 of 2019 and ors.), this

Court allowed those petitions setting aside the orders impugned therein. Similar treatment is, therefore, required to be given to the petitioners herein. The petitioners are poor agriculturists. The petitioners, however, would not be entitled for interest on the amount enhanced, if any, in their respective LARs from the dates of dismissal/return of their LAR to the date of filing of these Writ Petitions.

8. In view of the above, the Writ Petitions are allowed in the following terms:-

(i) The orders impugned in these Writ Petitions are set aside. Respective LARs are restored to the file of respective courts. The petitioners shall appear before the Courts concerned on 05.02.2021.

(ii) The petitioners shall tender their affidavits in lieu of examination-in-chief before the L.A.R. Courts concerned, on or before 20.02.2021.

(iii) The L.A.R. Court shall then decide said proceedings at the earliest and preferably, on or before 31.12.2021.

(iv) The petitioners shall not be entitled for interest component, in the event of enhancement of compensation, from the date on which the LARs were dismissed/returned to LAO, to the date of filing of these Writ Petitions.

(v) In the event these petitioners unnecessarily delay the proceedings and do not lead evidence as directed, the L.A.R. Court would be at liberty to pass appropriate orders.

[R.G. AVACHAT, J.]

KBP