

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
943 WRIT PETITION NO.8031 OF 2021**

SUNIL BHIMRAO PATIL AND ANOTHER ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...
Mr. N. R. Thorat h/f Mr. Ravindra K. Shingnapure,
Advocate for the Petitioners.
Mrs. V. S. Choudhari, AGP for Respondents-State.

...
**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.
DATED : 28th JULY, 2021.**

PER COURT:-

1. The petitioners seek directions against the respondents to decide application dated 06.10.2016 and to pass Award as per the joint measurement dated 24.07.1996.

2. The learned counsel submits that, the joint measurement was conducted in the year 1996. The Award was passed in the year 1999 in favour of the parents of petitioners. The petitioners had filed Reference seeking enhancement of the compensation. Against the order of the Reference Court, petitioners have filed First Appeal before this Court. The First Appeal is pending.

3. The learned counsel further submits that, petitioners have made an application in the year 2016 to pass fresh Award as per measurement for the fruit bearing trees, the pipeline and other appurtenances on the land. The respondents are bound to consider the request of petitioners. The delay and laches cannot be the sole ground for rejection of the claim of petitioners. The learned

counsel relies on the judgment of the Apex Court in a case of **Vidya Devi Vs. The State of Himachal Pradesh** reported in 2020 (2) SCC 569.

4. We have also heard the learned A.G.P. for respondents.

5. The joint measurement was conducted in the year 1996. The Award came to be passed in favour of the parents of petitioners in the year 1999. The petitioners not satisfied with the amount of compensation paid, preferred a Land Acquisition Reference under Section 18 of the Land Acquisition Act. The same is decided by the Reference Court. The petitioners thereafter filed an Appeal before this Court and the same is pending. The petitioners could have raised all the aspects in the Reference that was filed for the enhancement of the compensation, of which the Appeal is pending. The parents of petitioners did not file any application and after their death petitioners have filed the same.

6. In a case of **Vidya Devi Vs. The State of Himachal Pradesh** (supra) the Apex Court observed that the right to property is a Constitutional right under Article 300-A of the Constitution of India and nowadays it has been brought within the contours of human right. The legitimate claim of the party cannot be negated only on the ground of delay and laches.

7. In the present case, according to petitioners, the Award is passed in favour of the

parents of petitioners. The petitioners had filed Reference under Section 18 of the Land Acquisition Act seeking enhancement of the compensation. After disposal of Reference, First Appeal is filed and the same is pending before this Court. All legitimate grounds were available for the petitioners in the Reference filed before the Reference court. The proceedings were already initiated by petitioners. After death of the original land owners, petitioners have filed an application in the year 2016 for passing a fresh Award in respect of the alleged fruit bearing trees on the same land for which the Award is passed and petitioners have already filed Reference and against which an Appeal is also pending before this Court.

8. The separate writ petition would not be tenable. The petitioners cannot take up a multiple proceedings with regard to the same subject matter.

9. In light of the above, we are not inclined to entertain the writ petition.

10. Writ Petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE