

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

WRIT PETITION NO. 12130 OF 2021

Ghaleppa Annappa @ Annarao Birajdar
(Died) Through its L.Rs.

Shrimati Sarubai Ghaleppa Birajdar

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Santosh N. Patne, Advocate for the Petitioner.

Mr. S. P. Tiwari, AGP for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : 28th October, 2021.

PER COURT:-

. At the request of learned counsel for the petitioner leave to correct respondent No. 2 is granted.

2. The application filed by the petitioner under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act of 1894') is rejected on the ground that the acquiring body has filed an appeal against the judgment of the Reference Court passed under Section 18 of the Act of 1894 and relied by the petitioner for an application under Section 28-A of the Act of 1894.

3. The learned A.G.P accepts notice for respondent Nos. 1 and 2.
4. The respondent No. 2 certainly could not have decided the application under Section 28-A of the Act of 1894 as the appeal is pending and if the interim orders are passed in it, however, ought not to have rejected the application but should have kept it pending till the appeal filed by the acquiring body is decided.
5. In the light of that, impugned order is quashed and set aside. The application filed by the petitioner is restored to its original position before the respondent No. 2. The respondent No. 2 shall decide the said application depending upon the orders that may be passed by the High Court in appeal filed by the acquiring body.
6. With these observations, writ petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.