

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

921 WRIT PETITION NO.12755 OF 2021

NANDABAI PRAKASH DHARKARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner:
Mr. Jayabhar Dattatraya R.
AGP for Respondents: Mr. S. P. Tiwari

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

DATE: 02nd DECEMBER, 2021

PER COURT:

1. Heard the learned Counsel for the Petitioner and the learned A.G.P. for the Respondents.

2. The Petitioner had filed Reference U/Sec. 18 of the Land Acquisition Act, 1894 with the Collector on 15.04.2010. The same was rejected on 25.02.2013, as the Petitioner had not affixed the necessary Court Fees. The Writ Petition is filed in the year-2021.

3. In fact, the Collector could have referred the said Reference to the Court as required U/Sec. 18 of the Land Acquisition Act, 1894 and the Court could have passed further orders. The Collector also could have issued notice to the

Petitioner for depositing the said Court Fees, the same, it appears, has not been done.

4. Be that as it may, it was also the duty of the Petitioner to get the knowledge of the Reference filed by it, more particularly, when she had not deposited the Court Fees. The Petitioner has given an undertaking to this court that in case her Reference is proceeded further and benefit is given to the Petitioner by the Reference Court she is waiving statutory benefits for the delayed period.

5. The Petitioner, it appears, is an agriculturist and a rustic villager residing in remote place.

6. In view of the bonafides shown by the Petitioner by filing undertaking, we pass the following order.

7. The impugned order is set aside. The Petitioner shall deposit the Court Fees within one (01) week from today. Deposit of the Court Fees within one (01) week is a condition precedent.

8. In case the Petitioner deposits the Court Fees within one (01) week then, the Collector may take further steps as required U/Sec. 18 of the Land Acquisition Act, 1894 and may refer the

Reference to the Civil Court. The copy of the undertaking filed by the Petitioner in the present Petition shall also be filed in the said Reference along with the Court Fees so as to transmit the same to the Civil Court. It is made clear that the Collector shall also forward the copy of the present order along with the Reference. The order of this Court shall be taken note of at Exhibit-1 of the Reference that, in case the enhanced compensation is granted to the Petitioner in Reference then, the Petitioner has waived the statutory benefits from 25.02.2013 till the date the Petitioner deposits the Court Fees.

9. With the aforesaid observations, the Writ Petition is disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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