

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3539 OF 2019
AND
FIRST APPEAL NO. 3540 OF 2019

Harishandra Maruti Jadhvar and Others ..APPELLANTS

VERSUS

State of Maharashtra and Another ..RESPONDENTS

....
Mr. S.B. Choudhari, Advocate h/f Mr. A.R. Barate, Advocate for appellants
Mr. S.N. Kendre, A.G.P. for respondent no.1 – State
Mr. R.D. Raut, Advocate for respondent no.2
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CORAM : R.G. AVACHAT, J.
DATED : 13th OCTOBER, 2021

PER COURT :

1. Heard.
2. The reference Court has dismissed the reference on the ground to have not been filed it within limitation.
3. In terms of Section 18 of the Land Acquisition Act, reference is required to be filed within the period of limitation, as has been stated in the proviso to the said section, which reads as under :-

18. Reference to Court. - (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the

determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made -

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

4. In response to these appeals, an affidavit-in-reply has been filed by the Deputy Collector (Land Acquisition), Osmanabad. It has been stated therein that on 23rd January, 2013, notice under Section 12(2) of the Land Acquisition Act alongwith copy of the award was served on the appellants. The record indicates that the reference was filed on the very next day i.e. on 24th January, 2013. As such, the same has been filed within the prescribed limitation. In view of same, the appeals need to be allowed. Hence the following order :-

First appeals are allowed. The judgment and order impugned in these appeals is set aside. The matters are remanded back to the reference

Court for being decided it on its merits, without advertent to issue of limitation. The parties are at liberty to adduce the evidence in respect of their respective claims.

(R.G. AVACHAT, J.)

SSD