

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

WRIT PETITION NO.1134 OF 2020

Madanlal Mohanlal Mantri (died)
through His Legal Representatives,

- 1) Mukundas s/o. Madanlal Mantri
Age : 59 years, Occ. Business,
r/o. Mantri Galli, Beed
- 2) Premalata w/o. Madanlal Somani,
Age : 65 years, Occ. Household,
r/o. At Post Ter (Dhoki),
Tq. and Dist. Osmanabad
- 3) Omprakash s/o. Madanlal Mantri,
Age : 57 years, Occ. Business,
r/o. Mantri Galli, Beed
- 4) Alknanda s/o. Hanumandas Rathi,
Age : 54 years, Occ. Household,
R/o. Motinangar, Latur,

(Applicant nos.2 to 4 are through
GPA holder)

..Petitioners

Vs.

- 1) State of Maharashtra,
Through District Collector,
Beed
- 2) Executive Engineer,
Minor Irrigation Division Beed,
Tq. and Dist. Beed

..Respondents

Mr.R.R.Chandak, Advocate for petitioners
Mr.Y.G.Gujrati, AGP for respondent no.1

CORAM : R.G. AVACHAT, J.
DATE : FEBRUARY 01, 2021

FINAL ORDER :-

The challenge in this Writ Petition is to the order dated 30.04.2015 passed by learned District Judge-3, Beed, whereby the land acquisition reference preferred by the petitioners, has been disposed of confirming the award bearing No.LNQ/SR/26/96 passed by the Special Land Acquisition Officer (SLAO).

2. I have heard Mr.Chandak, learned counsel appearing for the petitioners. He would submit that the land of deceased – Madanlal came to be acquired under the Land Acquisition Act. He was paid inadequate compensation. He had, therefore, preferred a reference for enhancement of compensation. Thereafter, Madanlal died on 24.05.2006. Learned counsel would submit that the petitioners herein are legal representatives of deceased – Madanlal. The petitioners had no knowledge about pendency of the reference and hence, they could not pursue the reference after death of their father. He submits that the Advocate appearing on behalf of the

petitioners before the reference court, did not inform them progress of the matter. Learned counsel submits that when the petitioners got knowledge about the decision of the reference, they moved present Writ Petition.

3. 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 the LAR. They be given an opportunity of hearing. LAR could not have been disposed of by the reference Court observing the petitioners to have failed to adduce evidence. Learned counsel, therefore, ultimately, urged for setting aside the impugned order.

4. Learned AGP would, on the other hand, submit that the petitioners were grossly negligent. There is even delay of over two years to approach this Court after the decision of the reference Court. If this Court is pleased to allow the petition, the petitioners may not be held to be entitled for interest for the period from the date of decision in the LAR to the date of filing of this Writ Petition.

5. 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 LAR 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.

6. 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 present petitioners. The petitioners, however, would not be entitled for interest on the amount enhanced, if any,

in the LAR, from the date of disposal of the LAR confirming the order of the SLAO i.e. 30.04.2015, to the date of filing of this Writ Petition i.e. 22.11.2017.

7. In view of the above, the Writ Petition is allowed in the following terms:-

(i) The order impugned in this Writ Petition is set aside. The LAR is restored to the file of the LAR Court. The petitioners shall appear before the LAR Court on 20.02.2021.

(ii) The petitioners shall tender their affidavit in lieu of examination-in-chief before the L.A.R. Court, 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 of disposal of the LAR confirming the order of the SLAO i.e. 30.04.2015, to the date of filing of this Writ Petition i.e. 22.11.2017.

(v) In the event the 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