

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

FIRST APPEAL NO. 474 OF 2010

Shri Pandharinath S/o Vajinath Jadhav
Since deceased through his L.Rs.

- 1) Smt. Bhagirathibai W/o Pandharinath Jadhav
Age : 70 years, Occ : Household,
- 2) Venkat S/o Pandharinath Jadhav
Age : 45 years, Occ : Agriculture,
- 3) Vajinath S/o Pandharinath Jadhav
Age : 35 years, Occ : Agriculture,

All R/o Mahadev Galli, Omerga,
Dist. Osmanabad

- 4) Saw Anita W/o Nivrutti Sawant
Age : 42 years, Occ : Household,
R/o Nagthana, Tq. Ahmedpur,
Dist. Osmanabad.

..APPELLANTS

VERSUS

1. The State of Maharashtra
through District Collector,
Osmanabad.
2. The Executive Engineer,
Irrigation Project,
Strengthening Division,
Dist. Latur.

..RESPONDENTS

**AND
FIRST APPEAL NO. 528 OF 2010**

Ganpati S/o Ramchandra Kadere
Age : Major, Occ : Agriculture,
R/o Juni Peth, Omerga,
Dist. Osmanabad.

..APPELLANT

VERSUS

1. The State of Maharashtra
through District Collector,
Osmanabad.
2. The Special Land Acquisition
Officer No.1, Osmanabad.
3. The Executive Engineer,
Irrigation Project,
Strengthening Division,
Dist. Latur.

..RESPONDENTS

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Advocate for Appellants in FAs.: Mr. S.R. Sapkal
AGP for Respondent Nos.1 and 2 in F.A. No.474/2010 : Mr.
S.S. Dande
AGP for respondent nos.1 to 3 in F.A. No.528/2010: Mr.S.S.
Dande

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CORAM : S.G.DIGE, J.

DATE : 19.09.2022

ORAL JUDGMENT :

Both these appeals are from same land
acquisition proceedings and have been rejected on the

ground of limitation, hence I am deciding these two appeals by common judgment.

2. The issue of limitation is involved in these appeals.

3. It is the contention of the learned counsel for the appellants that the claim petitions were filed by the appellants within limitation. The learned Civil Judge, Senior Division, Omerga has rejected two claim petitions on the ground that the claim petitions were not within limitation. The learned counsel for the appellants submits that the land belonging to the appellants was acquired in the year 1992. The Special Land Acquisition Officer awarded meagre compensation. Thereafter the reference petitions were filed for enhancement of compensation, but the learned Reference Court has rejected it on the ground of limitation. The learned counsel further submits that in land reference in paragraph 8, it was mentioned that first time the claimant got knowledge on 22nd May, 1992 when he has

withdrawn the amount of compensation. The learned Reference Court has given more weightage to the clerical mistake in the affidavit filed by the appellants. The learned counsel further submits that while forwarding the references to the Reference Court, the Special Land Acquisition Officer has put the remark that the references are within limitation. This fact was not considered by the Reference Court. Hence requested to allow the appeals.

4. The learned counsel for the appellants relied on the judgments in the case of ***Purushottambhai Maganbhai Patel Vs. State of Gujarat and others*** reported in ***AIR 2005 S.C. 3464***.

5. It is the contention of the learned counsel for the respondents that the appellants themselves in their affidavit had mentioned that they have received the amount on 20th May, 1992. When the appellants themselves have stated the date, on that basis the Reference Court has passed the order, which is legal and valid. Hence no

interference is required in it.

6. I have heard both the learned counsel. Perused the judgment and order passed by the Reference Court.

7. The Reference Court has observed that the appellants have in their affidavit in examination in chief have stated the date which clearly shows that there is one day delay for filing the References, hence the Reference Court has rejected the claim petitions of the appellants. As the issue is in respect of limitation, it is necessary to see section 18(2)(b) of the Land Acquisition Act, 1894 (For short, "L.A. Act"), which states about limitation.

8. Section 18(2)(b) provides 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. In the present matters, the appellants received notice under section 12(2) of L.A. Act on 22nd May, 1992, so

six weeks would expire on 4th July, 1992. The appellants filed claim petitions on 3rd July, 1992. It shows that the appellants' claim petitions were within time. This fact is strengthened by the remarks of the Land Acquisition Officer mentioning that the appellants' claim petitions are within limitation. The said remarks is at Exhibit-1 clause 17(1). In my view, the Reference Court has erred while considering this aspect.

9. In view of the above, I pass the following order :-

ORDER

- (i) The appeals are allowed.
- (ii) The impugned judgment and order passed by the Civil Judge, Senior Division, Omerga is quashed and set aside.
- (iii) The matters are remanded back to the Civil Judge, Senior Division, Omerga for fresh hearing.

(iv) The parties shall lead the evidence in support of their contentions, if they so desire.

(v) The learned Reference Court shall decide the References on its own merits. As the matters are pertains to the year 2010, hence the learned Reference Court is requested to dispose of these matters as early as possible preferably within six months after the receipt of this order.

(vi) The appeals are disposed of accordingly.

[S.G.DIGE]
JUDGE

SGA/-