

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

981 WRIT PETITION NO.726 OF 2022

Sushilabai s/o Omprakash Ufad,  
Age: 53 years, Occupation : Agri.  
R/o. Ner, Tq. Jalna,  
Dist. Jalna

....Petitioner

Versus

1. The State of Maharashtra,  
Through District Collector,  
Jalna, Tq. & Dist. Jalna.
2. The Special Land Acquisition Officer,  
(Krushna Khore), Jalna.
3. The Executive Engineer,  
Minor Irrigation Work,  
(Local Sector) Jalna.

...Respondents

Mr Swapnil Patunkar and Mr Mahesh Swami i/by J.P. Legal Associates  
for Petitioner

Mr S.N. Morampalle, AGP for Respondent No.1/State

**CORAM : SANDEEP V. MARNE, J.**

**DATE : 2<sup>nd</sup> DECEMBER, 2022**

**JUDGMENT :**

1. Rule. Rule made returnable forthwith. With consent of both the sides, the petition is taken up for final hearing.

2. By the present petition, petitioner challenges Judgment and order dated 26.11.2018 rejecting land acquisition reference essentially on the ground that petitioner did not lead evidence. It has been reiterated by this Court that land acquisition reference is not an appeal against the

Award and the claimant is required to be given an opportunity to lead evidence in support of claim for enhanced compensation. The counsel for petitioner has relied upon the following Judgments :-

- (i) ***Walmik s/o Trimbak Tupe Vs. The State of Maharashtra and Anr. Writ Petition No. 12795/2019 dated 17<sup>th</sup> January, 2020 (Aurangabad Bench).***
- (ii) ***Dilip s/o Nagu Athwale Vs. The State of Maharashtra and Ors. First Appeal No. 1560/2017 dated 14<sup>th</sup> December, 2018 (Aurangabad Bench)***

3. However, petitioner cannot be permitted to take benefit of his own wrong. Since petitioner is at fault in not leading evidence in support of enhanced claim for compensation, petitioner will have to forgo interest on enhanced amount of compensation, if awarded, from the date of dismissal of LAR till today. I accordingly pass following order :-

#### **ORDER**

- (i) Considering the settled position of law, the writ petition is allowed. The Judgment and order dated 26.11.2018 is set aside and the LAR No. 665/2013 is restored.
- (ii) Petitioner shall have an opportunity to lead oral and documentary evidence in support of her claim for enhanced compensation.
- (iii) Needless to say that the State and Acquiring Body shall also have similar liberty. Petitioner shall appear before the Jt. Civil Judge, Senior Division, Jalna on 30<sup>th</sup> December, 2022.
- (iv) The Reference Court shall decide the reference as expeditiously as possible and preferably within a period of six months from today. Petitioner shall co-operate for expeditious disposal of the Reference.

- (v) Petitioner shall not be entitled to interest on the enhanced amount of compensation if awarded during the period from 26.11.2018 till today.
- (vi) With the above directions, the writ petition is allowed. The Rule is made absolute in above terms.

**[ SANDEEP V. MARNE, J.]**

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