

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

943 WRIT PETITION NO.2691 OF 2019

**RAISING BHIL KOKENI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioners : Mr. More Kumar Gaurav M.
AGP for Respondent/s-State : Mr. S. R. Yadav-Lonikar.
...

**CORAM : A. S. GADKARI, AND
S. G. MEHARE, JJ.**

DATE : 14.01.2022

P.C. :-

1. By the present petition, under Article 226 of the Constitution of India, the petitioners have prayed for quashing and setting aside of the decision of the Deputy Collector (Administration), Special Land Acquisition Officer, Nandurbar, dated 08.02.2018 and for direction to the said Authority to hear and decide the references of the petitioners filed on 25.05.2006.

2. Heard Mr. More, learned advocate for the petitioners. Mr. Yadav-Lonikar, learned AGP for the State. Perused documents annexed to the petition and original record produced by the petitioners.

3. It is the case of the petitioners that, their lands were acquired for the purpose of construction of Shivan Medium Project at Pimpripada, Wadgaon and Songirpada, Taluka and District Nandurbar. The Land Acquisition Officer, Nandurbar passed an award on 27.03.2006. The petitioners allegedly filed references under Section 18 of the Maharashtra Land Acquisition Act, 1894 (in short the 'said Act') with respondent No.2 i.e. the Collector, Nandurbar on 25.05.2006 which according to the petitioners was within the period of limitation. By the impugned order dated 08.02.2018, respondent No.3 has disposed off the said references on the ground that, in the references preferred by the petitioners under Section 18 of the said Act, no date of its filing was mentioned and therefore, the same are returned to them.

4. Learned counsel for the petitioners submitted that, the petitioners had filed references with the Office of Collector, Dhule and/or with the office of the concerned Authority through advocate Mr. V. D. Zalte on 25.05.2006. An endorsement was put by the said office on the top right hand side corner of the first page of each reference. He submitted that, even a Clerk from the said Office has put his signature at

the end of the left hand side corner of the covering page of the said references. That, all the petitioners had filed the said references on that day with the Office of respondent No.2. He submitted that, though the references were filed within the period of limitation, respondent No.2 has erroneously and illegally rejected their references after a lapse of about twelve (12) years. He, therefore, submitted that, the impugned Order dated 08.02.2018 passed by the authorized Officer of respondent No.3 i.e. Deputy Collector (Administration) be set aside and the references of petitioners be directed to be considered by the said Authority for forwarding it to the Civil Court.

5. It is to be noted here that, as and by way of a test case, we have minutely perused original document of reference filed by petitioner No.1 i.e. Raising Bhil Kokeni. At Page No.14 to the petition is a photo copy of the covering page of reference preferred by petitioner No.1. Page No.15 to the petition is the covering page of his reference. Minute perusal of said two documents coupled with the original document of reference would clearly indicate and reveal that, there is a rubber stamp on the right side top of the first page of reference (Page 15 to

petition) which mentions as under :-

"Received Court Reference U/s 18 of L.A.
Act. is Filed by Advocate Shri V. D. Zalte
on Dt. 25.05.2006."

On the covering page (i.e. page 14 to the petition) at the top right hand corner it is written in hand as :-

‘‘एकुण ११ / — रेफरन्स दाखल केले दि
२५ / ५ / ०६ रोजी’’

There is an endorsement at the end of left hand side corner on the said covering page as 'Avalni/25.05.2006/एकुण 11 LAR.

6. It is the contention of the petitioners that, the concerned clerk from the Office of respondent No.2 has put his endorsement that, 11 references were filed on 25.05.2006 and has put his signature at the end of left hand side of the said page. Perusal of original Reference made by petitioner No.1, Raising Kokeni discloses that, there is an endorsement of receipt of reference without there being a signature of receiving Authority or a seal of the concerned Authority. In our considered view, the seal allegedly put up by the Office of respondent No.2, was in fact the rubber stamp of Advocate Mr. V. D. Zalte who has allegedly put the date as '25.05.2006'.

There is no authenticity at all to rely on the said document, which according to us, is with a doubtful endorsement. Even the said alleged Clerk 'Avalni' has not put his designation or stamp below his signature.

7. There is another facet to the present case. Bare perusal of reference submitted by petitioner No.1 clearly indicates that, though it was filed by Advocate Zalte, the date of submission of the said reference are conspicuously missing from it. Various columns required to fill up with specific dates have been kept either deliberately blank or inadvertently blank. It is to be noted here that, the said references were preferred / filed by none other than a practicing Advocate and not by the petitioners in person, to raise spacious pleas for seeking latitude from this Court. It appears to us that, only with a view to overcome with the disability of limitation, the said endorsement dated 25.05.2006 has been put by 'somebody' on the original reference. So also alleged acknowledgments were endorsed without signatures and / or designation of the concerned person allegedly accepting it.

8. As we have observed the afore stated facts from the original copy of the reference of Mr. Raising Kokeni (Petitioner

No.1), we are taking the said document of reference on record. The Assistant Registrar, Decree Department of this Court is directed to take custody of the said reference document, which is having in all 81 pages (1-81) and the alleged acknowledgment on the covering page, a photo copy of which is annexed at page No.14 to petition, being a separate document tendered across the bar. Including the alleged acknowledgment, there are in all 82 pages which have been taken on record.

The Assistant Registrar, Decree Department, Bench at Aurangabad is directed to provide a photo copy of the compilation of the said documents to the advocate for the petitioners. The advocate for the petitioner will compare the photo copy with original document and will acknowledge the acceptance of the same.

9. As noted above, there are not only material discrepancies but the alleged acknowledgments/endorsements of 25.05.2006 are according to us dubious. At the request of learned advocate for the petitioners, we refrain ourselves from making further observations and / or referring the matter to the higher Authorities for scrutinizing various facts recorded herein

above.

10. Be that as it may. In view of the above, we are of the clear opinion that, the petitioners did not file their respective references within the period of limitation and also without mentioning specific dates on it. The respondent No.2 therefore has not committed any error either in law or on facts while passing the impugned Order dated 08.02.2018.

11. Petition being de hors of merits is accordingly dismissed.

(S. G. MEHARE, J.)

(A. S. GADKARI, J.)

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vmk/-