

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

WRIT PETITION NO. 6446 OF 2019

Rukminibai w/o Pandurang Dongre

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. S. S. Patunkar, advocate for the Petitioner.

Mr. A. S. Shinde, AGP for Respondent Nos. 1, 2 & 4.

**CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 15 July 2022.

PC :

By this petition, the petitioner is seeking a direction to the Respondent-Collector/Land Acquisition Officer to make a reference for enhancement of compensation to the competent Civil Court under Section 18 of the Land Acquisition Act, 1894. The award, in this case, is passed on 23.01.2005 in Land Acquisition Case No. 236/2002. The petitioner claims that by an application dated 13.07.2005, she had requested the Collector/Land Acquisition Officer to make a reference to the Competent Civil Court. A copy of the said application is

produced at page no.11 with purported acknowledgment from the office of the Special Land Acquisition Officer, B. & C., Jalna, dated 13.07.2005.

2 Respondent No.4 has filed an affidavit-in-reply of one Mr. Shashikant Hadgal, in which Respondent No.4 has stated that the record of land acquisition proceedings was transferred to his office from Jalna and the application dated 13.07.2005 is not found on record. Respondent No.4 has stated in paragraph nos. 3 and 4 of the affidavit-in-reply, thus:

3 I say and submit that, after receipt of the information from the concerned Assistant Government Pleader regarding the writ petition filed by the petitioner, I have personally gone through the available office record in which only copy of the Award dated 23.1.2005 is available regarding the land acquisition in respect to the land acquisition for construction of tank at village Karjat, Nandi and Dhangar Pimpalgaon. I say and submit that, though the petitioner contended that the petitioner filed application to the respondent no. 2 in the year 2005, no reference has been made to the court under section 18 of the Land Acquisition Act, 1894, however, it is pertinent to note that, though at the relevant time, Special Land Acquisition Officer (B & C), Jalna was the competent authority, now record came to be transferred to the office of present deponent in the

year 2014 and along with the record no such application as claimed by the petitioner is received to the office of present deponent.

4 I say and submit that, the application which is claimed to be filed by the petitioner is not at all on record and therefore no steps has been taken to make the land acquisition reference by the office of present deponent, I say and submit that, the present deponent has doubt about authenticity of the application dated 13.07.2005 which is annexed by the petitioner at Exh. A and therefore the petitioner has to produce strong evidence in support of his case that he had made such application in the year 2005 to the office of respondent no.2. I say and submit that, it is highly unacceptable and unbelievable that the petitioner made application in the eyar 2005 and kept mum for about 13 years and thereafter made representation on 21.3.2018.

3 We have heard learned Counsel for the parties.

4 The learned Counsel for the petitioner has submitted that the petitioner, being an illiterate lady, not being aware of the procedure to be followed in such cases, had failed to take steps after the reference was made in the year 2005. It is submitted that the Land Acquisition Officer can make the reference keeping the issue of limitation open, which can be decided by the competent Civil Court in the reference under Section 18 of the Act.

5 The learned AGP points out that there is gross delay and laches in approaching this Court and the petitioner has also not produced acceptable evidence/acknowledgment about the fact of application for reference being sent and received in the office of the Land Acquisition Officer. The learned AGP has pointed out an order dated 02.03.2022 passed by this Court in Writ Petition No. 9098 of 2019 in which, in similar circumstances, a request for reference of the matter was made by the petitioner.

6 We have considered the submissions made and gone through the order dated 02.03.2022. *Prima facie*, it can be seen that there is an application dated 13 July, 2005, which purportedly bears acknowledgment from the office of the Special Land Acquisition Officer, B. & C., Jalna. It appears that during interregnum, there is transfer of certain record and, therefore, possibility of the said application having been misplaced or not being attended to, cannot be ruled out. In any event, we cannot go into such disputed questions of facts in this petition under Article 226 of the Constitution of India.

7 In such circumstances, we propose to follow the same course as adopted by the Division Bench in Writ Petition No. 9098/2019 and that would be the consistent view, which has

already been taken by the Coordinate Bench.

8 We, therefore, dispose of the petition by directing the petitioner to produce copy of the application before the Collector/ Land Acquisition Officer who shall, within a period of three months from today, conduct necessary inquiry including about verification of the Inward Register and if the application is shown to have been received, a reference may be made to the competent Civil Court subject to the issue of limitation being left open to be decided by the Civil Court under Section 18 of the Land Acquisition Act. The issue of grant of interest is also left open to be decided by the Reference Court, in the event a reference is made.

9 The petition is disposed of in the aforesaid terms.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.

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