

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

63 WRIT PETITION NO.3023 OF 2022

MAHADU PRABHU MATSAGAR DECEASED
THROUGH L.RS. GANGADHAR MAHADU
MATSAGAR AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS

AND

65 WRIT PETITION NO.6266 OF 2022

SAMPAT MAHIPATI MATSAGAR

VERSUS

THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR
AND OTHERS

AND

66 WRIT PETITION NO.6272 OF 2022

BHAUSAHEB JANARDHAN MATSAGAR AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR
AND OTHERS

AND

67 WRIT PETITION NO.6273 OF 2022

JANARDHAN BHAGWANTA MATSAGAR DIED THROUGH LRS

BHAUSAHEB JANARDHAN MATSAGAR

VERSUS

THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR
AND OTHERS

AND

68 WRIT PETITION NO.6356 OF 2022

JANARDHAN WAMAN MATSAGAR AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR
AND OTHERS

AND

69 WRIT PETITION NO.6369 OF 2022

ANKUSH DADA MATSAGAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR
AND OTHERS

AND
70 WRIT PETITION NO.6386 OF 2022

MURLIDHAR CHIMAJI MATSAGAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR
AND OTHERS

Advocate for Petitioners : Mr Y.D. Kale
AGP for Respondent Nos. 1 and 4/State : Mrs G.L. Deshpande
Advocate for Respondent Nos.2 and 3 : Mr S.S. Dande
(In all matters)

CORAM : SANDEEP V. MARNE, J.
DATE : 28th NOVEMBER, 2022

PER COURT :

1. These petitions are filed challenging various orders passed by the Reference Court rejecting the References, essentially on the ground of failure of petitioners to lead evidence in support of their claims for enhancement in compensation.
2. Learned counsel for petitioners places reliance on the Judgment of this Court in ***Walmik s/o Trimbak Tupe Vs The State of Maharashtra and Anr in W.P. No. 12795 of 2019 decided on 17.01.2020***. He also relies on the order of this Court in ***Sukhdeo Rangnath Jagdale Vs. The State of Maharashtra and Ors. in Writ Petition No. 13481/2021 decided on 14.06.2022***.
3. The view consistently taken by this Court is that the References should ordinarily be not disposed of on the ground of failure to adduce

evidence and that the claimants should be given an opportunity to adduce evidence in support of the enhanced compensation. In similar circumstances, I had an occasion to pass an order in ***Vilas Shankarrao Kulkarni and Anr. Vs. The State of Maharashtra through District Collector and others (Writ Petition No. 8609/2022 decided on 18.10.2022.***

4. What is coming in the way of petitioners is, some delay in approaching this Court to set up challenge to the orders passed by the Reference Court. The references have been rejected in the year 2018. In Writ Petition No. 6369/2022 the reference has been rejected on 08.08.2017. Petitioners have pleaded the reason of miscommunication between them and their advocates for not noticing the decision of the dismissal of References. Since the delay in filing present petitions, though not short, but at the same time is not inordinate, I proceed to entertain the present petitions. At the same time, petitioners cannot be permitted to take benefit of their own wrong. They will have to forgo interest on enhanced compensation from the date of dismissal of their References till the decision thereon. Petitioners are also required to be saddled with costs for approaching this Court belatedly. This course of action is adopted while passing the orders in ***Vilas Shankarrao Kulkarni*** (supra). Accordingly, I proceed to pass the following order :-

ORDER

- (i) The Judgments and orders in seven References are set aside and the same are restored on the file of Civil Judge, Senior Division, Vaijapur, Dist. Aurangabad. They shall be decided on their own merits by providing an opportunity to petitioners to

lead evidence and produce documents within a period of four weeks from today.

- (ii) If in the event of failure of petitioners to file affidavit of evidence and/or produce documents within a period of four weeks from today, the Reference Court shall proceed to dismiss the References.
- (iii) In the event of any enhanced compensation being awarded by the Reference Court to petitioners, they shall not be entitled to the interest from the date of dismissal of References till the decision thereof.
- (iv) Parties to appear before the Civil Judge, Senior Division, Vaijapur, Dist. Aurangabad on 5th December, 2022.
- (v) Considering the fact that the present petitions are filed after delay of 4/5 years, costs of Rs.10,000/- (Rupees Ten Thousand Only) is imposed in each of the petitions to be paid to the respondent No. 2 within a period of four weeks from today.
- (vi) Failure to pay costs, shall also result in dismissal of the respective References of petitioners.
- (vii) The writ petitions are accordingly disposed of.

[SANDEEP V. MARNE, J.]

mta