

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

935 WRIT PETITION NO.9098 OF 2019

**SUDAM BABURAO MULE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioners : Mr. Humbe Vilas M.
AGP for Respondent Nos.1 to 3 : Mr. P.S. Patil

...
**CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, J.J.**

DATED : 02nd MARCH, 2022

PER COURT:-

1. By this petition, 45 petitioners have approached us with prayer clauses (B), (C) and (D) as under:-

“B. To direct the respondents to refer LAR proceedings Dtd.13/10/2010 at Exh.-B before the CJSD Jalna within stipulated period.

C. Pending hearing and final disposal of this writ petition to direct the respondents to refer LAR proceedings Dtd.13/10/2010 at Exh.-B before the CJSD Jalna within stipulated period.

D. To direct the respondents to decide the application Dtd.27/10/2017 and 13/11/2017 regarding referred their LAR proceeding Dtd.13/10/2010 before the CJSD Jalna.”

2. This petition was filed on 04.05.2019. The respondent authorities entered an affidavit in reply on 08.02.2022 through Sub-Divisional Officer and Land Acquisition Officer, Jalna. In paragraph

nos.7, 9, 10, 11 and 12, the SLAO has stated as under:-

“7. I say and submit that, as per record transferred by then SLAO, the record in respect of reference as claimed by the petitioners are not found in said record. I say and submit that, after enquiry it was revealed that one inward outward register and Sec.18 reference register was submitted in this Hon’ble Court in Writ Petition No.5754/2016 on 19.10.2018; and the said record i.e. inward outward and section 18 reference register is still with the registry of this Hon’ble Court.

9. I say and submit that, entry in respect of reference applications dated 13.10.2010, in respect of 11 of the petitioners is not found in said section 18 register or with the other record available with the office of the answering deponent no.3. Copies of lists containing names of petitioners whose names are found in Section 18 register and in respect of petitioners whose names are not found in Section 18 register or any other record, are annexed herewith and marked as **EXHIBIT R-1, Collectively**.

10. I say and submit that, the entries pertaining to reference application dated 13.10.2010 in respect of 34 petitioners as per list annexed is found in the section 18 reference register, but the reference application and other documents are not found in the record; and as such the said files pertaining to 34 petitioners would now be required to be reconstructed for further referring the same to the competent Civil Court.

11. I say and submit that, after reconstruction of file in respect of said 34 petitioners the same would be referred to the competent Civil Court within a period of 3 months after scrutiny as per law.

12. I say and submit that, since no entries are found in respect of applications filed by 11 petitioners as per list annexed hereinabove, the reference proceedings in respect of said 11 petitioners cannot now be referred to the competent Civil Court.”

3. The learned advocate for the petitioners submits that some of these 45 petitioners have jointly filed their applications for seeking reference and some of them have individually preferred their applications. They have the original acknowledgement received from the competent office i.e. District Collector, Jalna to indicate the lodging of the applications. If the District Collector is unable to trace out 11 applications, these petitioners are willing to tender copies of the said applications as they have the acknowledgement of having already delivered them to the District Collector on 13.10.2010, except two applications which were delivered on 18.06.2011.

4. The learned AGP submits, on instructions, that he would collect copies from Advocate Shri Humbe and transmit the same to the District Collector, Jalna. The 34 applications which are undisputed, would be referred to the LAR Court within three months. In so far as these 11 applications are concerned, the District Collector, Jalna would complete the formality of verifying whether they were actually delivered to his office and with this objection kept open, these applications would be referred to the LAR Court within the same period.

5. While recording the above statement, we grant liberty to the office of District Collector, Jalna that, if the said office notices any fraud played by any of these 11 applicants or have fraudulently obtained the acknowledgement receipt, it would pass an appropriate

order on the said application and communicate the order to those applicants who are involved, within 30 days.

6. We find it appropriate to record at this stage that if such an enquiry is to be conducted, those 11 persons also be given an opportunity of hearing as the learned advocate for the 45 petitioners submits, on instructions, that court fees have been deposited for 43 petitioners except 2 whose applications were filed on 18.06.2011 and they do not have any acknowledgement of having deposited the court fees.

7. Notwithstanding the above, those who have not paid the court fees, would be at liberty to pay the court fees before the LAR Court.

8. Needless to state, the issue of interest is kept open.

9. The petition is accordingly disposed off.

(S.G. MEHARE. J.)

(RAVINDRA V. GHUGE, J.)