

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

WRIT PETITION NO.9095 OF 2014

**PRABHU MAHADU DALVE, LRS. KASHINATH PRABHU DALVE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

WITH

WRIT PETITION NO. 9119 OF 2014

**VITHAL S/O MAHADEO SUKALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Petitioners in both Petitions : Mr. Sanjay A. Wakure
AGP for Respondents in both Petitions – State : Mr. S. B. Pulkundwar

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CORAM : MANGESH S. PATIL, J.

DATED : 13 JULY 2022

PER COURT :

Heard.

2. These petitions arise out of the similar communication issued by the Land Acquisition Officer of the same date, whereby a reference solicited by the petitioners have been refused to be forwarded under section 18 of the Land Acquisition Act, 1894 for non payment of court fees.

3. I have heard the learned advocate for the petitioners as also the learned AGP.

4. *Ex facie*, the Land Acquisition Officer has refused to forward the references on the sole ground that necessary court fees was not paid.

5. In fact, he was not supposed to act as if he was adjudicating something. If at all necessary court fees was not annexed with the reference he could have directed to deposit whatever court fees which was due and could have forwarded the reference. He had no jurisdiction to refuse to forward it merely because court fees was not paid. The lacuna could have been rectified by the reference court.

6. The issue is no more *res integra*. A Division Bench of this Court in the matter of ***Sambhaji Manaji Chate and Anr. Vs. State of Maharashtra and Anr., 2003(2) Mh.L.J. 661*** has held that it would be appropriate for the Land Acquisition Officer to pass a conditional order and forward the reference to the civil court, if the claimants were not ready to pay the court fees. The order passed by the Special Land Acquisition Officer is patently illegal and deserves to be quashed and set aside.

7. However, there is one more aspect. The petitioners have moved this court after lapse of so many years. They must have been aware that they had put up the necessary application for making the references in the year 1997 and even if it is assumed that they were not aware about the stand being taken by the Special Land Acquisition Officer of not making the reference for want of court fees, the petitions are absolutely silent as to what steps the

petitioners had taken to pursue the matter.

8. I intend to emphasize this fact just because the acquiring body should not be burdened with the financial implications of paying interest etc. under the Land Acquisition Act, for the period during which the petitioners could have, but have not taken steps to see to it that their references reached the reference court.

9. Even though the petitions have been filed way back in the year 2014, no emergent steps seem to have been taken to prosecute the petitions further.

10. Be that as it may, writ petitions are allowed.

11. The impugned orders of the respondent no.2 Land Acquisition Officer are quashed and set aside. He shall now act in terms of the directions of this court in the matter of *Sambhaji Manaji Chate (Supra)* and make the reference as early as possible.

12. However, the petitioners shall not be entitled to claim any monetary benefit for the period from 16 May 1997 till 12 September 2014.

(MANGESH S. PATIL, J.)