

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

WRIT PETITION NO.12321 OF 2022

**ASHOK S/O MARUTI SALGAVE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
COLLECTOR AND OTHERS**

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Mrs. P. G. Sontakke h/f Mr. G. K. Sontakke, Advocate for the Petitioner.

Mr. S. B. Pulkundwar, AGP for Respondents-State.

Mr. S. S. Dande, Advocate for Respondent No.3.

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**CORAM : SANDEEP V. MARNE, J.
DATED : 06th DECEMBER, 2022.**

PER COURT:-

1. By this petition petitioner challenges the judgment and order dated 06.12.2018 passed by the 2nd Joint Civil Judge, Senior Division, Omerga dismissing the Land Acquisition Reference on account of failure on the part of petitioner to lead the evidence in support of his claim for enhanced compensation.

2. Mrs. Sontakke, learned counsel appearing for petitioner would submit that Land Acquisition Reference is not in the nature of Appeal and that, therefore, adequate opportunity ought to have been given by the Reference Court to lead evidence. In support of her contention Mrs. Sontakke relies upon the judgment of this Court in **Dhangir Pandurang Gosavi Vs. State of Maharashtra and Others, 2021 DGLS (Bom.) 2210** and **Diwakar Prabhakar Chopade Vs. The Sub Divisional Officer & Anr., Civil Revision Application No.63/2017** decided on 17.10.2019.

3. On the other hand Mr. Dande, learned counsel appearing for the Acquiring Body as well as Mr. Pulkundwar, learned AGP appearing for the State strongly oppose the petition. They submit that petitioner already had sufficient opportunity to lead evidence in the Reference which remained pending for eight long years. They would further urge for dismissal of petition on the ground of delay and laches, as the Land Acquisition Reference dismissed on 06.12.2018 is sought to be revived by filing the present petition on 09.11.2022.

4. I have heard the learned counsel for the parties. No doubt it is true that there has been some delay on the part of petitioner in filing the present petition, however it cannot be said that the delay is so inordinate that this Court would decline to extend similar benefits to petitioner which has been granted in numerous such cases by this Court. This Court has consistently taken a view that the Land Acquisition References dismissed otherwise than on merits would not withstand the judicial scrutiny and an opportunity has been granted to claimants to lead evidence in support of their claims for enhanced compensation.

5. However, at the same time petitioner cannot take benefit of his own wrong. The petitioner will have to forego the interest during the period of dismissal of Land Acquisition Reference on 06.12.2018 till date. For the delay of four years in filing the present petition petitioner is also required to be saddled with costs. I accordingly proceed to pass the following order:

ORDER

(i) Writ petition is allowed. The judgment and order dated 06.12.2018 passed by the Reference Court in LAR No.38/2012 is

set aside and LAR No.38/2012 shall stand restored before the Reference Court.

(ii) The petitioner will be at liberty to lead evidence in LAR No.38/2012 within a period of four months from today. It is made clear that failure on the part of petitioner to lead evidence within a stipulated period would result in summary dismissal of LAR.

(iii) The petitioner shall not be entitled to any interest on the enhanced amount of compensation, if any, during the period from 06.12.2018 till today.

(iv) The petitioner to pay costs of Rs.5000/- to respondent no.3.

(SANDEEP V. MARNE)
JUDGE