

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

944 CRA NO.212 OF 2018
SANJAY VENKATRAO TIRMANWAR
VERSUS
STATE OF MAHARASHTRA THROUGH DISTRICT, COLLECTOR, NANDED
AND OTHER

...

Advocate for Petitioner : Mr. Kurundkar Sunil V.
A.G.P. for the Respondent Nos. 1 & 2/State : Mr. N. T. Bhagat
Advocate for Respondent No. 3 : Mr. Darak B.A.

CORAM : **MANGESH S. PATIL, J.**
DATE : **05.04.2022.**

PER COURT :

This is a revision under Section 18(3) of the Land Acquisition Act, 1894 read with Section 115 of the Code of Civil Procedure against the order of Special Land Acquisition Officer refusing to forward the reference made by the petitioner under Section 18 of that Act on the ground that it was not preferred with the period of limitation provided for making a reference.

2. I have heard the learned advocates of both the sides and the learned A.G.P. It is apparent that by the impugned order the respondent/Special Land Acquisition Officer has refused to forward the reference on the ground that it was not filed within six months from the date of award or within a period of six weeks from receipt of the notice under Section 12(2) of the Act or within six months of the award whichever expires earlier. He has therefore mentioning that the provisions of Section 5 of the Limitation Act were not applicable has refused to forward the reference.

3. It is not clear as to if and what kind of enquiry was undertaken by the respondent/Special Land Acquisition Officer. It is also not clear as to if any opportunity of being heard was extended to the petitioner. Whether the record that was available with his office was even confronted to him soliciting his standpoint. It is, therefore, quite apparent that though he was

vested with a quasi judicial powers, he did not exercise the jurisdiction as is expected of a quasi judicial authority before rendering the decision under challenge and as is laid down in the matter of **Smt. Savitri Chandrakesh Pal Vs. State of Maharashtra & Oth; 2009(4) Mh.L.J. 406.**

4. Faced with the situation when I put up a query to both the sides as to if after a reference is made under Section 18 of the Land Acquisition Act, the issue regarding limitation cannot be raised before the reference court and whether a reference court has no jurisdiction to deal with it, both the sides are unanimous that even the enquiry into the limitation is open to be gone into and the reference court has the jurisdiction to decide the issue of limitation that is being raised and made a ground while passing the order under challenge.

5. Considering the aforementioned facts and circumstances, when already a valuable time has been lost and the impugned order does not depict any opportunity having been extended and the evidence having been permitted to be led, it would be appropriate that the revision is partly allowed and keeping open the issue of limitation to be raised and decided before the reference court, the respondent/Special Land Acquisition Officer is directed to forward the reference as it is.

6. The revision is partly allowed. The impugned order is quashed and set aside, however, keeping open the issue of limitation to be agitated for being decided by the reference court.

7. The respondent/Special Land Acquisition Officer may now forward the reference to the reference court which shall decide the issue of limitation as well.

8. Record and proceeding be sent back immediately.

(MANGESH S. PATIL, J.)