

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7219 OF 2022

1. Uttamrao @ Kelaji Panduji Kathe
(Deceased) Through his LRs
A] Ramesh Uttamrao @ Kelaji Kathe
Aged about 46 years,
Occ. Agriculturist,
R/o Maharana Pratap Cowk,
Chandur Bazar, Tq. Chandur Bazar
Dist. Amravati
- 2] Maroti Laxmanrao Akolkar
(Deceased) Through his LRs
A] Shital Manohar Akolkar
Aged about 36 years,
Occ. Agriculturist,
B] Saloni D/o Manohar Akolkar
Aged about 12 years,
Occ. Education
C] Viraj S/o Manohar Akolkar
Aged about 05 years,
Occ. Education
Nos.2-B and 2-C Both are minor
therefore represented through their
natural guardian mother
Shital Manohar Akolkar
Aged about 36 years,
Occ. Agriculturist
All 2A to 2-C R/o Narayan Nagar,
Chandur Bazar, Tq. Chandur Bazar
Dist. Amravati

... Petitioners

-vs-

1. The State of Maharashtra,
Through its Secretary.
Revenue and Forest Department,
Mantralaya, Mumbai
2. The Collector, Collectorate Office,
Amravati, Tq. & Dist. Amravati
3. The Special Land Acquisition Officer,

Upper Wardha Project No.4, Amravati
Tq. & Dist. Amravati

4. Vidharbha Irrigation Development
Corporation, Nagpur Dist. Nagpur
Through Executive Engineer

5. The Executive Engineer,
Purna Medium Project Division,
Achalpur, Tq. Achalpur,
Distt. Amravati, New address
Medium and Minor Irrigation
Division, Achalpur, Tq. Achalpur,
Dist. Amravati

... Respondents

Shri R. J. Shinde, Advocate for petitioners.

Ms N. P. Mehta, Assistant Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND ANIL L. PANSARE, JJ.

DATE : November 23, 2022

Oral Judgment : (Per : A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

The land of the petitioners was acquired for Purna Medium Project. The award was passed under Section 12 of the Land Acquisition Act, 1894 (for short, the Act of 1894). The Reference Court enhanced the amount of compensation by its judgment dated 01/01/2014 in L.A.C. No.41/2007. Since the petitioners sought to claim benefit of the aforesaid enhancement they made an application to the respondents on 05/04/2021. Since there was no adjudication of this application, this writ petition has been filed.

2. It is submitted by the learned counsel for the petitioners that in LAC No.41/2007 (*Narendra s/o Pursuhottam Sinkar and anr. vs. The State of Maharashtra, Thr. Collector, Amravati and ors.*) the Reference Court, Achalpur has passed the award on 01/01/2014 granting enhanced compensation to the applicants therein. Hence it is submitted that on the ground of parity, the petitioners herein are also entitled to the enhanced compensation under Section 28-A of the Act of 1894.

3. It is further submitted by the learned counsel for the petitioner that in Special Leave to Appeal (C) No.14700/2015 (*Karam Chand (Dead) By LRs and anr. vs. State of Himachal Pradesh and anr.*) by order dated 27/10/2017 the Honourable Supreme Court was pleased to condone the delay in seeking the determination of compensation under Section 28-A of the said Act subject to declining the benefit of interest for the period of delay. It is thus urged that similar course can be followed by denying the benefit of interest for the period of about three months in the present case. The learned counsel for the petitioner also referred to the decision in Writ Petition No.5838/2017 (*Mohd. Shakir Mohd. Jafar vs. State of Maharashtra and anr.*) decided on 13/11/2019 wherein after referring to the aforesaid decision in *Karam Chand* (supra), liberty was granted to the claimant to seek condonation of delay by moving an application under Section 28-A of the said Act. It is however seen that in the application/representation dated 05/04/2021 the petitioners have merely demanded grant of enhanced compensation. There is no explanation for the delay that has occurred in

seeking enhanced compensation. In view of the fact that in the decision of this Court in *Mohd. Shakir Mohd. Jafar* (supra) liberty was granted to the concerned claimant to seek condonation of delay in moving an application under Section 28-A of the Act of 1894 we are inclined to grant such opportunity.

4. Hence for aforesaid reasons, the following order is passed :

- (i) The petitioners shall be at liberty to file an application for condonation of delay and the Competent Authority shall pass appropriate order on the same in accordance with law after hearing the petitioner.
- (ii) The petitioner shall appear before the respondent No.3-Special Land Acquisition Officer on 03/01/2023 with appropriate application and after hearing the petitioner, the application shall be decided in accordance with law within a period of three months thereafter.
- (iii) In case the delay is condoned, the petitioner would not be entitled for interest for the period of delay from 01/01/2014 to 05/04/2021. Needless to state that if the delay is not condoned, the petitioner is at liberty to have legal recourse in that regard.

Rule is disposed of in aforesaid terms with no order as to costs.

(Anil L. Pansare, J.)

(A. S. Chandurkar, J.)