

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

WRIT PETITION NO.4911 OF 2021

Shantabai Bhagwan Gomate
Aged about 55 years,
Occupation : Agriculturist,
R/o Garkhed, Tq. Deulgaon Raja,
District – Buldhana

... Petitioner

-vs-

1. The State of Maharashtra,
Through its Secretary.
Irrigation Department,
Mantralaya, Mumbai 400 032

2. The Sub Divisional Officer and
Land Acquisition Officer,
Sindkhed Raja, Tq. Sindkhed Raja,
District Buldhana

... Respondents

Shri R. N. Ghuge, Advocate for petitioner.

Shri A. S. Fulzele, Additional Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : September 19, 2022

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

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

The agricultural land of the petitioner was acquired for the Khadakpurna Project pursuant to the LAC No.26/1990-1991. In reference arising out of Darkhast No.09/2002 an award dated 30/08/2013 came to be passed. The petitioner sought benefit of enhanced compensation by making an application under Section 28-A

of the Land Acquisition Act, 1894 (for short, the said Act). This application was made on 25/02/2014 and the same has been rejected by the Land Acquisition Officer on the ground of delay.

2. It is 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.

3. Though the learned Additional Government Pleader for the respondents supported the impugned order, we find that the course followed in *Karam Chand* (supra) can be adopted in the present case

by permitting the petitioner to move an application for condonation of delay. Such course was followed in *Mohd. Shakir Mohd. Jafar* (supra).

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

- (i) The petitioner 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.2- Special Land Acquisition Officer on 01/10/2022 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 01/12/2013 to 25/02/2014. 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.

(Urmila Joshi-Phalke, J.)

(A. S. Chandurkar, J.)