

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1673 OF 2023

Anjanabai Dattu Patil,
Age 80 yrs. Occ. Agri.
r/o Kurha, Tq. Bhusawal
Dist. Jalgaon.

...PETITIONER

VERSUS

1. The State of Maharashtra
Through its Distict Collector,
Jalgaon, Dist. Jalgaon.
2. The Special Land Acquisition Officer,
Minor Irrigation Division, Jalgaon,
Dist. Jalgaon
3. The Executive Engineer,
Minor Irrigation Division, Jalgaon,
Dist. Jalgaon.
4. The Executive Director,
Tapi Irrigation Development
Corporation, Jalgaon, Dist. Jalgaon.

...RESPONDENTS

Mr. Vinod P. Patil, Advocate for the petitioner.
Mr. S.N. Morampalle, AGP for Respondents – State.
Mr. A.D. Pawar, Advocate for Respondent Nos.3 & 4.

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AND

WRIT PETITION NO.1682 OF 2023

Bhagwan Baburao Patil,
Age 46 yrs, Occ, Agri.
r/o Kurha, Tq. Bhusawal
Dist. Jalgaon.

...PETITIONER

VERSUS

1. The State of Maharashtra

Through its District Collector,
Jalgaon, Dist. Jalgaon.

2. The Special Land Acquisition Officer,
Minor Irrigation Division, Jalgaon,
Dist. Jalgaon
3. The Executive Engineer,
Minor Irrigation Division, Jalgaon,
Dist. Jalgaon.
4. The Executive Director,
Tapi Irrigation Development
Corporation, Jalgaon, Dist. Jalgaon.

...RESPONDENTS

Mr. Vinod P. Patil, Advocate for the petitioner.
Mr. R.B. Bagul, AGP for Respondents – State.
Mr. A.D. Pawar, Advocate for Respondent Nos.3 & 4.

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AND

WRIT PETITION NO.1685 OF 2023

1. Dilip Raghunath Shimpi,
Age 55 yrs. Occ. Agri.
2. Rajendra Raghunath Shimpi,
Age 53 yrs. Occ. Agri.
3. Sanjay Raghunath Shimpi,
Age 50 yrs., Occ. Agri.
4. Parvatabai Raghunath Shimpi,
Age 65 yrs. Occ. Agri.
All r/o Kurha, Tq. Bhusawal
Dist. Jalgaon.

...PETITIONERS

VERSUS

1. The State of Maharashtra
Through its District Collector,
Jalgaon, Dist. Jalgaon.
2. The Special Land Acquisition Officer,

Minor Irrigation Division, Jalgaon,
Dist. Jalgaon

3. The Executive Engineer,
Minor Irrigation Division, Jalgaon,
Dist. Jalgaon.
4. The Executive Director,
Tapi Irrigation Development
Corporation, Jalgaon, Dist. Jalgaon.

...RESPONDENTS

Mr. Vinod P. Patil, Advocate for the petitioner.
Mr. S.N. Morampalle, AGP for Respondents – State.
Mr. A.D. Pawar, Advocate for Respondent Nos.3 & 4.

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AND

WRIT PETITION NO.1686 OF 2023

1. Chindu Ganpat Bari,
(deceased) through L.Rs.
- 1A) Vilas Chindu Randale
Age 45 yrs. Occ. Agri.
2. Hiranman Krishna Randale,
Age 40 yrs. Occ. Agri.
3. Devidas Krishna Randale,
Age 43 yrs., Occ. Agri.
4. Ashok Krishna Randale
Age 46 yrs. Occ. Agri.
5. Suresh Krishna Randale
Age: 49 Yrs. Occ. Agri.
All r/o Kurha, Tq. Bhusawal
Dist. Jalgaon.

...PETITIONERS

VERSUS

1. The State of Maharashtra
Through its District Collector,
Jalgaon, Dist. Jalgaon.

2. The Special Land Acquisition Officer,
Minor Irrigation Division, Jalgaon,
Dist. Jalgaon
3. The Executive Engineer,
Minor Irrigation Division, Jalgaon,
Dist. Jalgaon.
4. The Executive Director,
Tapi Irrigation Development
Corporation, Jalgaon, Dist. Jalgaon. ...RESPONDENTS

Mr. Vinod P. Patil, Advocate for the petitioner.
Mr. R.B. Bagul, AGP for Respondents – State.
Mr. A.D. Pawar, Advocate for Respondent Nos.3 & 4.

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AND

WRIT PETITION NO.1940 OF 2023

1. Kasturabai Trambak Shinde,
(Died) Through L.Rs.
- 1A) Samadhan Trambak Shinde
Age 52 yrs. Occ. Agri.
r/o Kurha, Tq. Bhusawal
Dist. Jalgaon. ...PETITIONERS

VERSUS

1. The State of Maharashtra
Through its District Collector,
Jalgaon, Dist. Jalgaon.
2. The Special Land Acquisition Officer,
Minor Irrigation Division, Jalgaon,
Dist. Jalgaon
3. The Executive Engineer,
Minor Irrigation Division, Jalgaon,
Dist. Jalgaon.
4. The Executive Director,

Tapi Irrigation Development
Corporation, Jalgaon, Dist. Jalgaon.

...**RESPONDENTS**

Mr. Vinod P. Patil, Advocate for the petitioner.
Mr. R.B. Bagul, AGP for Respondents – State.
Mr. A.D. Pawar, Advocate for Respondent Nos.3 & 4.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 30th MARCH, 2023

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.
2. These petitions filed under Article 226 and 227 of the Constitution of India, impugn the common order dated 22/01/2019, passed by learned Civil Judge, Senior Division, Bhusawal, in Land Acquisition Reference Nos. 1096/2014, 1097/2014, 1101/2014, 1100/2014, 1099/2014, thereby rejecting the land acquisition reference as the petitioners failed to adduce evidence.
3. Indisputably the issue involved in this petition is covered by the judgment of this Court (Coram: V.K. Jadhav, J.) in Writ Petition No. 12795 of 2019 and connected writ petitions, wherein this Court has held that the reference has to be decided on merits. Since, in those matters, references were rejected due

to failure on the part of the petitioners therein to adduce evidence, this Court has held that the reference Court did not decide the references on merits and therefore set aside the orders passed by the reference Court and restored the references and directed to decide the references on merits.

4. Admittedly, in the present case also the references are not decided on merits and the same are rejected solely on the ground that the petitioners failed to adduce evidence. The present case is therefore, squarely covered by the above-referred decision

5. In *Writ Petition No. 1448 of 2021 (Bharat Laxmidas Thakkar vs. State of Maharashtra & Others)*, learned Single Judge of this Court has held:

"4. It is trite that it is a reference under Section 18 of the Land Acquisition Act and is not an adversarial litigation. Once a reference is made by the Special Land Acquisition Officer, it is imperative for the reference court to decide it on merits either way. It is apparent that by the impugned order, the reference court has simply dismissed it in default instead of deciding it on merits.

5. In view of such state-of-affairs, with a rider that the petitioner is not allowed to reap the benefit of his

own wrong and making him to forgo his claim for the interest for the intervening period, the writ petition can be allowed.”

6. In view of aforesaid observations, following order:-

ORDER

- (I) The writ petitions are allowed.
- (II) The impugned order dated 22/01/2019 passed by learned Civil Judge, Senior Division, Bhusawal, in Land Acquisition Reference Nos. 1096/2014, 1097/2014, 1101/2014, 1100/2014, 1099/2014, is hereby quashed and set aside.
- (III) The matters are relegated back to the concerned reference Court for decision on merits, after giving an opportunity to the respective parties.
- (IV) The reference Court shall expedite the hearing of the matters and decide the same within a period of six months from the date of receipt of writ of this order. Parties to co-operate.
- (V) The petitioners shall not be entitled to claim any interest for the period from the date of dismissal of the proceeding i.e. 22/01/2019 till today.

Rule is made absolute in the above terms.

No costs.

[NITIN B. SURYAWANSHI, J.]