

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

WRIT PETITION NO.1567 OF 2022

Ramdas s/o Baburao Dalave
Age 60 yrs, Occ- Agriculture
R/o- Hipparga (Tad), Tq. Tuljapur
Dist- Osmanabad

... Petitioner

Versus

1. State of Maharashtra
Through The District Collector,
Osmanabad
2. Special Land Acquisition Officer (KKVM),
At Osmanabad
3. The Executive Engineer
Irrigation Project Majbutikaran
Division Osmanabad.

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Advocate for Petitioner : Mr. Y.P. Jadhav
AGP for Respondent Nos.1 & 2 : Mrs. G.L. Deshpande
Advocate for Respondent No.3 : Mr. S.B. Parnere

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 27TH APRIL, 2023

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally by the consent of the parties.
2. This petition is filed under Article 226 and 227 of the Constitution of India for following reliefs:-

"A. The Record and Proceedings of the Case may kindly be called for;

B. To issue writ of Certiorari or any other appropriate

writ and directions to quash and set aside the impugned award/compromise decree passed by the Lok Adalat dated 15.03.2009.

- C. To issue writ of Certiorari or any other appropriate writ and directions to quash and set aside the impugned final award passed by the Ld. 3rd CJSD Osmanabad dated 20.07.2009.*
- D. To issue writ of Mandamus or any other appropriate writ and directions to restore the LAR No. 49/2001 with directions to decide the LAR No. 49/2001 within the stipulated period of time, preferably within 6 months from the date of order.*
- E. Any other just and equitable relief in the interest of justice, may kindly be granted in favour of the petitioner."*

3. Petitioner filed L.A.R. No.49/2001 for enhancement of land acquisition compensation. The said L.A.R. was referred to the Lok Adalat, to be held on 15/03/2009, without consent of the petitioner and his advocate. On 15/03/2009, though petitioner and his advocate were not present, the matter was compromised before Lok Adalat.

4. Under wrong impression petitioner challenged the said award passed by Lok Adalat before reference Court with a prayer to restore his L.A.R. Along with the said application, petitioner filed Civil Misc. Application No.199/2018 for condonation of delay. The said application is held to be not tenable by the reference Court. Hence, the present petition.

5. Heard learned advocate for petitioner, learned advocate for respondent No.3 and learned Additional Government Pleader for

respondent Nos.1 and 2. Perused the writ petition memo, annexures thereto and the impugned order.

6. By relying on *Bharvagi Construction and Another Vs. Kothakapu Muthyam Reddy and Others, AIR 2017 SC 4428*, learned advocate for petitioner has assailed the impugned award passed by Lok Adalat. He submits that compromise could not be recorded in absence of petitioner and his advocate. He, therefore, submits that impugned award is liable to be quashed and set aside.

7. Learned advocate for respondent No.3 supported the impugned award and order passed by reference Court holding that the delay condonation application is not tenable. Further submission is that the petitioner has belatedly approached the reference Court for setting aside award passed by Lok Adalat after inordinate delay of more than 10 years and therefore, petitioner is not entitled for any relief. He also submitted that, in case this Court is inclined to allow the petition, it may be held that petitioner is not entitled for interest for a period of 10 years.

8. Indisputably, there is no signature of petitioner and his advocate on the compromise pursis (Exhibit-15) and on the terms of settlement. In spite of that, it is recorded that the parties have settled the matter before Lok Adalat on 15/03/2009.

9. Admittedly, petitioner's agricultural property is acquired. The valuable right of the petitioner to seek enhanced compensation for acquisition of his agricultural land is involved in the matter. Since Lok Adalat has passed compromise decree in absence of petitioner and his advocate, it cannot be said that the petitioner was party to the settlement. Impugned award, therefore, is unsustainable in law and facts of the present case.

10. In the result, writ petition is allowed. Impugned award/ compromise decree passed by the Lok Adalat on 15/03/2009 in LAR No.49/2001, is hereby quashed and set aside. LAR No.49/2001 is relegated to the reference Court for its decision afresh on merit after giving opportunity of hearing to the parties. Petitioner and respondent shall appear before reference Court on 12/06/2023. Rule is made absolute.

11. The issue of award of interest of 10 years' period is kept open to be agitated before the reference Court.

(NITIN B. SURYAWANSHI, J.)