

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

WRIT PETITION NO. 2404 OF 2022

Amruta Genda @ Gunda Mhaske .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Sachin S. Panhale, Advocate for the Petitioner.
Shri S. B. Yawalkar, Addl.G.P. for the Respondent Nos. 1 and 2.
Shri R. K. Ingole, Advocate for the Respondent No. 3.

**WITH
WRIT PETITION NO. 2438 OF 2022**

Shahubai Balu Mhaske .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Sachin S. Panhale, Advocate for the Petitioner.
Shri S. G. Sangle, A.G.P. for the Respondent Nos. 1 and 2.
The Respondent No. 3 is served.

**WITH
WRIT PETITION NO. 2439 OF 2022**

Ramkishan @ Ramkrushna Venkati Gomare
Since deceased through L.Rs.
Mahadev Ramkishan Gomare and another.. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Shri Sachin S. Panhale, Advocate for the Petitioner.
Shri A. R. Kale, A.G.P. for the Respondent Nos. 1 and 2.
Shri S. V. Warad, Advocate for the Respondent No. 3.

**CORAM : NITIN W. SAMBRE AND
S. G. CHAPALGAONKAR, JJ.
DATE : 24TH APRIL, 2023.**

FINAL ORDER :

. Heard. By consent all these three petitions which involve similar issue wherein factual matrix are also identical are tagged and heard finally.

2. The petitioners who are agriculturists alleged that their lands were acquired way back in between 1996 to 2000 for Katpur Irrigation Project, District Latur for which award under Section 11 of the Land Acquisition Act, 1894 (for short "L. A. Act") came to be delivered on 30th January, 2000. The petitioners are claiming that they have accepted the meager compensation awarded by the Land Acquisition Officer under protect.

3. Since the petitioners are claiming to be illiterate persons have not chosen to take reference remedy available under Section 18 of the L. A. Act seeking enhancement in the compensation.

4. According to the petitioners other similarly placed agriculturists who are covered under same Section 4 notification have approached the Adhoc District Judge – 3, Latur, who in exercise of powers U/Sec. 18 of the L. A. Act awarded enhanced compensation of Rs. 2,000/- per R for dry crop land and Rs. 3,000/- per R for seasonal irrigated land. Based on the aforesaid award dated June 09, 2008 delivered in L.A.R. No. 146 of 2001, the petitioners claim to have lodged an application U/Sec. 28-A of the L. A. Act on August 05, 2008 seeking similar compensation.

5. According to petitioners the said application remained pending for years together and lastly they were served with notice for hearing on aforesaid application by the respondent No. 2 on February 15, 2021. According to the petitioners the application preferred by the petitioners seeking enhanced compensation U/Sec. 28-A of the L. A. Act is rejected vide impugned order dated February 15, 2021.

6. Mr. Panhale, learned counsel appearing for the petitioners while questioning impugned order delivered by the respondent No. 2 would invite attention of this Court to the scheme of Section 28-A of the L. A. Act, judgment delivered by the Reference Court i. e. Adhoc District Judge – 3, Latur in L.A.R. No. 146 of 2001 in the case of Shivaji Gopal Thadkar Vs. The State of Maharashtra with other connected matters on June 09, 2008 and the application preferred by the petitioners styling same to be U/sec. 28-A of the L. A. Act, which is shown to have been preferred in the year 2008 along with an affidavit duly sworn some time on 05th August, 2008 so as to claim that the petitioners have lodged the claim seeking enhanced compensation well within time as prescribed under the aforesaid legal provisions. According to Mr. Panhale, the authorities have rejected the said prayer by causing substantial prejudice to the petitioners particularly when application was well within time. He would as such urge that it is necessary for this Court in such eventuality to quash and set aside the impugned order thereby directing the respondent No. 2 to decide the claim U/Sec. 28-A of the L. A. Act.

7. Per contra, Mr. Yawalkar, learned Additional Government Pleader, Mr. Sangle and Mr. Kale, learned Assistant Government Pleaders for respondent Nos. 1 and 2 in respective writ petitions would strenuously oppose the prayer as according to them the respondent No. 2/Sub Divisional Officer has given sufficient reasons thereby rejecting the prayers of the petitioners. According to them the very application which was preferred by the petitioners seeking enhanced compensation itself is not established and that being so the authority was justified in rejecting the prayer.

8. We have considered the aforesaid submissions.

9. This Court is required to be sensitive to the proviso to Section 28-A(1) of the L. A. Act. The said proviso in express terms provides for the manner and the mode in which the issue of limitation is to be considered and dealt with. The proviso in express terms provides that such application has to be moved within three months while computing period of three months, the date of the application being moved before the Collector and the date on which the award was pronounced and time required for collecting certified copy of the award is required to be taken into account.

10. In the case in hand, admittedly petitioners have not applied for grant of certified copy of the award delivered under Section 18, which they are forming basis for seeking enhanced compensation. Apart from above, the petitioners either have

allegedly lodged claim for grant of enhanced compensation, however, the acknowledgment of the application preferred U/Sec. 28-A of the Act does not specify the date on which the office of the respondent No. 2 has acknowledged the such application. Though it is claimed that the application is accompanied with an affidavit dated 05th August, 2008, however, the endorsement given by the office of the respondent No. 2 does not specify any such date on the documents.

11. As such, whether application seeking enhanced compensation was preferred by the petitioners within stipulated time U/Sec. 28-A is a fact which the petitioners have failed to establish.

12. The respondent No. 2/Sub Divisional Officer has in detail and categorically dealt with the circumstances which have led to rejection of prayer of the petitioners viz over writing, the doubt in the matter of production of the evidence, etc. In this background it is to be held that the petitioners have failed to establish the fact about moving an application U/Sec. 28-A of the L. A. Act for award of enhanced compensation well within statutory limitation as prescribed U/Sec. 28-A of the Act. That being so no error could be noticed with the order impugned. All these petitions lack merit and stands dismissed.

[S. G. CHAPALGAONKAR, J.]

[NITIN W. SAMBRE , J.]

bsb/April 23