

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

WRIT PETITION NO.3289 OF 2022

**BABULAL LALSING RAJPUT
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Petitioner : Mr. Yogesh D. Kale
AGP for Respondent – State : Mr. P.N. Kutti
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 25th JULY, 2023

PER COURT :

1. Petitioner filed Land Acquisition Reference No.39/1991, seeking enhancement of compensation awarded for acquisition of his 2 H 65 R land from Gut No.56, situated at village Vaijapur, Tq. Vaijapur, for construction of Bor-Dahegaon Medium Project.
2. As the petitioner failed to lead evidence, L.A.R. No.39/1991 was dismissed on 30/09/2002. The said decision was challenged by the petitioner by filing MARJI No.1018/2002, for setting aside *ex parte* judgment and award. The same was dismissed in default by order dated 29/06/2005. Petitioner, thereafter, filed MARJI No.75/2010 (Old MARJI No.155/2010) seeking restoration of L.A.R. No.39/1991 and MARJI No.1018/2002. By order dated 13/08/2014, the same is rejected. These orders are impugned in the present writ petition.

3. Heard learned advocate for petitioner and learned Assistant Government Pleader for respondent – State. Perused the writ petition memo, annexures thereto and the impugned order.

4. Learned Assistant Government Pleader vehemently opposed the petition stating that it is obvious that petitioner is negligent and has failed to diligently prosecute the land acquisition proceedings. He submits that the reference is of the year 1991 and now the petitioner would not be in a position to lead evidence in support of his claim.

5. Learned advocate for petitioner submits that award has been passed in favour of other agriculturists who had filed reference proceedings seeking enhancement of compensation awarded for the same acquisition and petitioner may get benefit of the same. Land of the petitioner admeasuring 2 H 65 R is acquired for Bor-Dahegaon Medium Project. Therefore, considering right of the petitioner, the lapses on his part may be condoned by taking a sympathetic view and the petition may be allowed.

6. Though the petitioner is negligent in prosecuting the reference and has committed lapses and the reference as well as restoration applications were not diligently prosecuted, taking into consideration the fact that 2 H 65 R land of the petitioner who is

poor agriculturists, is acquired, in the interest of justice and so as to give last opportunity to the petitioner to contest his reference on merit, this Court is inclined to allow the petition. Hence the following order:-

ORDER

- (I) Writ petition is allowed.
- (II) Impugned order dated 30/09/2002 passed in Land Acquisition Reference No.39/1991, order dated 29/06/2005 passed in MARJI No.1018/2002 and the order dated 13/08/2014 passed in MARJI No.75/2010 (Old MARJI No.155/2010), are quashed and set aside.
- (III) L.A.R. No.39/1991 is restored to it's original position and the same shall be decided expeditiously on merits by the reference Court, after giving opportunity to the petitioner to lead evidence.
- (IV) Petitioner shall lead his evidence within a period of three months from the date of receipt of writ of this order.
- (V) It is made clear that the petitioner shall not be entitled for any interest from 30/09/2002, till today.

(NITIN B. SURYAWANSHI, J.)