

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

**23 WRIT PETITION NO.3110 OF 2022
WITH WP/3113/2022 WITH WP/3114/2022 WITH
WP/3116/2022 WITH WP/3115/2022 WITH WP/3156/2022
WITH WP/3155/2022 WITH WP/3111/2022 WITH
WP/3159/2022**

**ZHUMBERBAI PANNU LENWAR AND OTHERS
VERSUS
THE COLLECTOR AURANGABAD OTHERS**

Mr. Dhananjay Mane, Advocate h/f Mr. D. M. Pingale, Advocate
for the petitioners

Mr. K. B. Jadhavar, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 12th JULY, 2023

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1. Heard the learned advocate for the for the parties.
2. The matter is taken up for final disposal by consent of the parties.
3. Limited issue involved in this petition is that land of the petitioner from village Tisgaon came to be acquired for the purpose of construction of Tisgaon-Mitmita Road. Two awards

were published for the purpose of convenience i.e. 1 for lands in Tisgaon and another for lands in Mitmita. First award was published on 21-04-2009 i.e. for village Mithmita and dated 03-11-2009 for the village Tisagoan. Some of the claimants from the award in respect of Tisgaon made a reference to the Special Land Acquisition Officer. The learned Special Land Acquisition Officer forwarded the said references to the civil court. The civil court by judgment and order dated 17-06-2017 answered the reference by enhancing amount of compensation from Rs.8600/- per R to Rs. 14555/- per R. After the award came to be passed the petitioner filed an application under Section 28(A) of the Land Acquisition Act. The learned Special Land Acquisition Officer however, by communication dated 18-09-2020 rejected the said application only by stating that notification under sections 4 and 6 are of different dates a in respect of these two different awards and has refused to entertain the application.

4. It is the submission of the petitioner that merely there are two awards will not deprive this petitioner from filing

application section 28-A. Awards are published only for the purpose of convenience. However, notification is one and the same therefore, for all the practical purpose it needs to be treated as one award. He relies upon the judgment passed by Allahabad High Court in the case of Luttful Haque Vs Collector reported in AIR 1995 Allahabad 93 wherein it is held that merely because date of award is different is no ground to refuse the benefit under Section 28-A. The other judgment in the case of Chchangur Vs State of UP in CMWP No. 9121/1990 it is held by the Allahabad Court that even once notification is issued benefits of section 28-A needs to be given to the claimants, though the award is different. He relies upon the judgment of the Gujrat High Court in Special Civil Application No. 10577/2012 in the case of Patel Dhanjibhai Popatbhai and others Vs State of Gujrat and others wherein it is held in that case that all the notification were issued on the same day. Notifications were published in the same Government Gazette. The court held that this indicate that entire acquisition proceeding was called out and in that case benefit can be given

under section 28-A .

5. Learned AGP submits that when two different awards are there, there is no question of giving benefits to the petitioners if they are relying upon the land acquisition awards in land acquisition reference in different awards. The claimants so as to claim benefit under section 28-A only when the reference are answered in respect of claimants from the same award. When awards are different it needs to be considered as separate and independent awards and prays for rejection of the petition.

6. After going through the submissions and specially judgments of the Allahabad High Court and Gujrat High Court, this court finds that though there appears to be two different awards but those are part of same notification and they are in respect of same project. Date of publication of notification under Section 4(1) may be different. However, if in case one award is answered by the reference court the claimants in other award

also get benefits of section 28-A. In view of the same, letter/order dated 18-09-2020 issued by the Special Land Acquisition Officer, Aurangabad is quashed and set aside. The petitions stand allowed in above terms.

7. The learned Special Land Acquisition Officer is requested to take decision on the application filed by the petitioners within a period of three months.

[KISHORE C. SANT, J.]

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