

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8575 OF 2023

Smt. Prabhavati Moratti Sonalkar
(Deceased) through her L.Rs.
Rajendra s/o Malojirao Dodtalle

Petitioner

Versus

The State of Maharashtra and others

Respondent

...

AND

WRIT PETITION NO.8579 OF 2023

Meenakshi Mallikarjun Kodgi

Petitioner

Versus

The State of Maharashtra and others

Respondent

...

AND

WRIT PETITION NO.8597 OF 2023

Late Sharanappa s/o Sangramappa
Bhatsange (died) through his L.Rs.
Baswaraj s/o Sharnappa Bhatsange

Petitioner

Versus

The State of Maharashtra and others

Respondent

...

AND
WRIT PETITION NO.8857 OF 2023

Kantabai Nivruti Gurme

Petitioner

Versus

The State of Maharashtra
through Secretary and others

Respondent

...
AND
WRIT PETITION NO.8858 OF 2023

Uttam Keshavrao Gaikwad

Petitioner

Versus

The State of Maharashtra through
the Secretary and others

Respondent

...
AND
WRIT PETITION NO.8859 OF 2023

Yashodabai Dhondiba Agawane

Petitioner

Versus

The State of Maharashtra and others

Respondent

...
AND
WRIT PETITION NO.8860 OF 2023

Anjayya s/o Manikappa Vishwakarma

Petitioner

Versus

The State of Maharashtra and others

Respondent

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Shri A.N. Irpatgire, Advocate for the Petitioner.
Shri S.G. Karlekar A.G.P. for the Respondents-State.
(in all writ petitions)

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**CORAM : NITIN JAMDAR, ACTING CJ &
S. G. CHAPALGAONKAR, J.**

DATE : 24 JULY 2023.

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PER COURT :-

1. Heard learned counsel for the petitioners.
2. The petitioners are before us by this Writ Petition assailing the order passed by the respondent Special Land Acquisition Officer dated 13.10.2022.
3. The grievance of the petitioners is that some time in the year 1985 to 1988 Respondents constructed a road encroaching on Petitioner's land. The petitioners had moved a petition in the year 2013 and in the year 2018 the Court permitted the petitioners to make representations, which came to be decided by the impugned order.
4. The impugned order has stated that the road was constructed on 33' panand road with permission of the agriculturists and the petitioners are not entitled to any compensation. Learned counsel for the petitioners submitted that

there is no positive finding in the order that road was not constructed on petitioners' land and without this positive finding, relief to the petitioners could not have been rejected.

5. Though this Court permitted the petitioners to make a representation that does *ipso facto* mean that the aspect of delay and laches was wiped out. It is settled law that a representation cannot be construed as cause of action and the aspect for delay will have to be traced to the original cause of action. It becomes relevant when the issue has to be decided on the basis of official record when having approached the Court after substantial delay and it is not possible to enter into disputed questions of fact. Therefore, the petitioners cannot make capital of the fact that there are certain lacunas in the record of the respondent-State. As regards the contention of the petitioners that certified copy of the map of the year 1985 has not been looked into, merely annexing certified copy of the map to the representation would not suffice. The Petitioner should have sought the demarcation in the context of the map. We find no such request made by the petitioners.

6. However, instead of entirely non-suiting the petitioners, we dispose off the petitions by observing that as on today since there is no request of the petitioners for joint measurement of the land in context of the map, we are not inclined to interfere in absence of a proper demarcation because

various disputed questions of facts arise.

7. Writ petitions are accordingly disposed off.

(S. G. CHAPALGAONKAR, J.) (ACTING CHIEF JUSTICE)

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aaa/-