

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

WRIT PETITION NO. 7770 OF 2019

1. Mukhtar Ahmad A. Latif Deshmukh,
Age : 58 Years, Occu. : Agril.,
2. Anisabi A. Latif Deshmukh,
Age : 35 Years, Occu. : Agril.,
3. Hanifabi A. Latif Deshmukh,
Age : 55 Years, Occu. : Agril.,
4. Affshanbi A. Latif Deshmukh,
Age : 52 Years, Occu. : Agril.,
5. Bismillabi Latif Deshmukh,
Age : 53 Years, Occu. : Agril.,
6. Nasim Arkar Mo. Hasan,
Age : 45 years, Occu : Agril.,
7. Mo Faruk Mo. Hasan,
Age : 60 years, Occu : Agril.,
8. Mo. Arif Mo. Hasan,
Age : 61 years, Occu : Agril.,
9. Bismillabi Mo. Hasan,
Age : 59 years, Occu : Agril.,
10. Bakayatbi Mo. Hasan,
Age : 54 years, Occu : Agril.,
11. Bilkisbi Mo. Hasan,
Age : 53 years, Occu : Agril.,

All R/o Nashirabad,
Tq. and Dist. Jalgaon.

.. Petitioners

Versus

1. Government of Maharashtra,
Through Collector, Jalgaon.
2. The Special Land Acquisition Officer
U. T. P. H. (1) Hatnur Project,
Jalgaon.
3. The Executive Engineer,
Waghur Project Division, Jalgaon. .. Respondents

Ms. Sakshi A. Kale, Advocate h/f Shri Ajeet B. Kale, Advocate for the Petitioners.

Shri B. V. Virdhe, A.G.P. for the Respondent Nos. 1 and 2.

Shri Ajay D. Pawar, Advocate for the Respondent No. 3.

CORAM : SHAILESH P. BRAHME, J.

DATE : 23RD OCTOBER 2023.

ORAL JUDGMENT :

. Rule. Rule is made returnable forthwith. With the consent of the learned counsel for the parties heard finally at the admission stage.

2. The petitioners are the original claimants who were prosecuting L.A.R. No. 46 of 2002. Their reference was being heard along with six other references arising out of a common award. The matter was referred to the Maha Lok Adalat held on 06.02.2011 and terms of the settlement were arrived at before the panel of Lok Adalat in District Court Jalgaon and the proceedings were settled in terms of the compromise. The

petitioners seek to challenge the settlement award passed in Maha Lok Adalat on the ground that there was no consent given by them, there was no intimation and behind their back the matter proceeded to be settled.

3. The contentions and the submissions of the learned counsel for the petitioners are contested by the learned counsel appearing for the respondents. It is submitted that in all seven reference proceedings were disposed of in view of the compromise award, but none of them except the petitioners have raised any grievance. The petitioners were being represented by a lawyer. With their consent matter was referred to the Maha Lok Adalat. With their consent and the signatures the terms of settlement were finalized and the compromise award was passed. It is emphatically denied that the petitioners were not aware of the proceedings before the Maha Lok Adalat and the compromise award passed therein. The learned counsel for the respondents would submit that it is very surprising that for last about eight years no grievance is raised by the petitioners and no action is taken against the lawyer who failed to communicate the petitioners.

4. The learned counsels would submit that there is inordinate laches of more than eight years in not presenting the present writ petition and there is absolutely no explanation tendered by the petitioners. It is therefore submitted that the claim is frivolous and after thought. They would submit that if the

present petition is entertained, then other persons whose references were also compromised by the common settlement award are likely to come to the Court for various grievances. It is pointed out that in fact there is no enhancement, as such. According to them the petitioners have failed to prove that they were not having knowledge and they for the first time learnt after eight years. They would urge to dismiss the petition.

5. There is no dispute that the Special Land Acquisition Officer has awarded compensation of Rs. 39,165/- for piece of 31R land belonging to the petitioners. Against the common award, in all seven reference petitions were filed before the learned Civil Judge Senior Division, Jalgaon. The terms of settlement which are placed on record indicate that there are no signatures of the petitioners. All the reference petitioners were being represented by a common lawyer.

6. The learned counsel appearing for the respondents would also point out that in fact there is already disbursement of an amount of Rs. 39,165/- to the petitioners way back on 09.02.1999. A payment voucher is produced on record at Exhibit R – 3. Therefore, the submission of the petitioners that the petitioners did not receive any compensation is not correct. They preferred L.A.R. No. 46 of 2002 for enhancement. The settlement award which is comprised of terms of settlement arrived at on 06.02.2011 is placed on record. The document does not reflect signatures of the petitioners. There is no material on record to

infer that the petitioners were intimated by the lawyer in writing or the petitioners consented for entering into settlement. It is expected of the lawyers and the parties to have communication in writing in respect of monetary and proprietary claims. I find that there is substance in the submissions of the learned counsel for the petitioners.

7. The writ petition is filed on 29.03.2019. The impugned award was passed on 06.02.2011. There is delay/laches of more than eight years in approaching this Court. The delay and laches have been explained by the petitioners in paragraph Nos. 7, 9 and 10 of the petition. The respondents have strongly opposed the submissions of the petitioners in this regard. However, there is nothing on record to entertain any doubt for the explanation tendered. I do not find any *mala fides* in presenting the petition belatedly. No circumstances are being pointed out to show that the petitioners are being benefited unduly by causing laches of eight years. The objection of the respondents for entertaining the petition on the ground of laches is meritless.

8. There are rival submissions so far as disbursement of amount of compensation. The petitioners have received the amount awarded as stated hereinabove. For the enhancement of the compensation the reference was preferred. The submissions of the learned counsel for the petitioners that no further amount is claimed or no proceedings are initiated for recovery of further amount are inconsequential. That is not a decisive factor.

Unless there is an enhancement considering the matter on merits, there is no question of proceeding further for the execution of the recovery.

9. The respondents have expressed apprehension that other persons are likely to approach the Court of law, if the present petition is entertained and allowed is misplaced. The petitioners are approaching this Court under peculiar circumstances. They are disputing knowledge and consent.

10. The submissions of the learned counsel for the respondents that the petitioners did not make any complaint either against the lawyer or against anybody for last eight years and, therefore, there is oblique motive are meritless and cannot be countenanced. Once the explanation tendered by the petitioners for belatedly approaching this Court is accepted, the submissions of the respondents have to be negated.

11. The learned counsel for the petitioners has submitted that one of the plausible reasons for the others for not challenging the compromise award is that their lands in question are Bagayati in nature, whereas the lands of the petitioners are Jirayat in nature. According to her, they might have been satisfied with the terms of the settlement. Whether other persons are similarly situated with the present petitioners is not known. Just because other persons have not challenged the compromise award cannot be a ground to disprove the petitioners.

12. The most relevant aspect of the matter is the duration from 06.02.2011 to 28.03.2019, which is more than eight years. The learned counsel for the petitioners has expressly shown willingness of the petitioners to give up the interest during this period. The statement and the submissions deserve to be accepted.

13. I find that in the interest of justice, the petition deserves to be allowed on certain conditions. The petitioners are entitled to get an opportunity to contest the matter on merits and to lead evidence for the enhancement of the compensation. In that view of the matter, I pass following order.

O R D E R

A. The writ petition is partly allowed.

B. The settlement award passed in Maha Lok Adalat dated 06.02.2018 in L. A. R. No. 46 of 2002 to the extent of the petitioners is quashed and set aside.

C. The L. A. R. No. 46 of 2002 is remitted back to the Reference Court for deciding the same afresh after extending an opportunity of hearing to the petitioners. However, the petitioners shall not be entitled to interest for the period from 06.02.2011 to 28.03.2019.

D. The Reference Court shall decide the reference on its own merits. The same shall be decided as expeditiously as possible and in any case within a period of six (06) months from the date of this order.

E. Rule is made absolute in above terms. There shall be no order as to costs.

[SHAILESH P. BRAHME, J.]

bsb/Oct. 23