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

906 WRIT PETITION NO.8766 OF 2023

**SHAIKH MOHAMMED SHAIKH HASSAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Mr Saie Joshi, Advocate i/b J. P. Legal Associates, Advocate for
Petitioners;

Mr A. V. Deshmukh, A.G.P. for Respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 26th September, 2023

PER COURT:

1. Our order 04/08/2023, reads as under :-

“1. On 27.07.2023, we had passed the following
order :-

*"1. The application filed by the Petitioners, dated
16.06.2007, through an Advocate, which is received
by the Inward and Outward Department of the Special
Land Acquisition Department, Krishna Khore, Jalna,
on 29.06.2007 along with the Court Fees of
Rs.7215/-, is said to be pending.*

*2. At the request of the learned A.G.P., we are once
again granting another chance and listing this matter
on 04.08.2023 for 'passing orders'.*

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3. *If we find that the application is pending for 16 years with the office of the District Collector, we would issue appropriate orders for imposing costs."*

2. *The learned AGP submits on specific instructions that the application tendered by the Petitioners to the SLA Department, Krishna Khore, Jalna on 29.06.2007, was transmitted to the District Court, Jalna on 19.07.2007. There is no record available with the Office of the District Collector with regard to the further developments in the said matter.*

3. *In view of the above, we direct the learned Registrar (Judicial) of this Court to request the learned Principal District Judge, Jalna to tender the details of the LAR application filed by the present petitioners u/s 18 of the Land Acquisition Act, 1894. Let such details be delivered to this Court on or before 04.09.2023.*

4. *On request of the learned AGP, liberty to inspect Register No.2 maintained for entries of applications u/s.18 and Section 28A (1 to 199 pages), which is deposited in this Court in WP No.5754/2016 and the Inward Register (page No.1 to 205), which is deposited in the same case.*

5. *Stand over to 04.09.2023 in the "passing orders category".*

2. On 04/09/2023, the following order was passed :-

“1. The District Collector, Jalna, has tendered a report dated 19.10.2018. The Sub Divisional Officer has tendered his report dated 02.08.2023 praying to the learned Registrar (Judicial) of this Court, for return of certain Registers (119 and 205 pages, respectively). The learned

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Principal District Judge, Jalna, is yet to submit his report. There is no communication from the learned Principal District Judge, though our order is dated 04.08.2023.

2. We are listing this Petition on 11.09.2023, in the same category.

3. The learned Registrar (Judicial) of this Court shall submit a written reminder to the learned Principal District Judge, Jalna. We must have the report from the said Judicial Officer, by the next date.”

3. The learned A.G.P. has placed on record a communication dated 25/09/2023, along with certain documents (15 pages). The same are collectively marked as ‘X-1’ for identification.

4. The short issue before us is, as to whether it can *prima facie* be inferred that the Petitioner had tendered an application seeking reference (LAR application) under Section 18 of the Land Acquisition Act, 1894.

5. The acknowledgment receipt of the inward-outward Department of the Special Land Acquisition Department, Krishna Khore (Jalna), indicates that the said office received the application of the Petitioner on 29/06/2007 alongwith the court-fees of Rs.7,215/-. Naturally the court-fees have been accounted

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for. The concerned Clerk from the said Department Shri. S. S. Pagar (Awwal Karkun), District Collector Office, Jalna, has submitted his written statement dated 02/08/2023, wherein he has stated that the office has received the LAR Reference documents from the Petitioner on 29/06/2007. He has himself received the documents and an entry has been made in the inward Register. He has categorically stated that the said proceedings were forwarded on 19/07/2023 to the office of the District Court Jalna.

6. The District Collector, Jalna has earlier tendered a communication dated 19/10/2018, to the learned Registrar (Judicial) of this Court, stating therein that the proceedings initiated by the Petitioner were not traceable and a four members Enquiry Committee was constituted to probe into the matter and the report dated 15/10/2018 is tendered to the Court. It was concluded by the District Collector that the conduct and procedure adopted by the then Deputy Collector Land Acquisition Officer, Krishna Khore, is *prima facie* suspicious. Disciplinary action was initiated against the erring officers.

7. The District Judge-3, Jalna has tendered a report to this Court dated 02/09/2023, stating that the proceeding initiated

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by the Petitioner was not received in the office of the District Court.

8. In the above peculiar circumstances, we are of the view that the benefit of doubt has to be given to the Petitioner. The fact of tendering the LAR application along with court-fees is now undisputed. If the District Court cannot trace out the LAR application of the Petitioner in the backdrop of the office of the District Collector indicating that the said proceedings were transmitted to the District Court, it would be travesty of justice to hold that the Petitioner had never filed an LAR application. The factors before us convince us that the Petitioner had tendered an application on 29/06/2007 alongwith the court fees.

9. In view of the above, **this Writ Petition is partly allowed.** We direct that the LAR application dated 16/06/2007 placed on record before us from page Nos.13 to 20, shall be transmitted by Respondent No.2/Deputy Collector/Special Land Acquisition Officer, Krishna Khore, Jalna through a Special Messenger to the District Judge at Jalna within 15 days from today.

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10. We direct the District Court that the application of the Petitioner shall be treated as having been lodged on 29/06/2007. Since there is evidence to indicate deposition of the court-fees of Rs.7,215/-, no further court-fees shall be leviable. By following the due procedure laid down in law, the said application, after issuing notices to all the stakeholders, would be dealt with expeditiously and preferably within a period of six months from the returnable date of the notices.

11. We leave it to the concerned Court to deal with the aspect of grant of interest and all incidental and consequential monetary benefits. We leave it open to the State of Maharashtra to fix the responsibility on the concerned person in the light of the communication of the District Collector, dated 19/10/2018 and the enquiry report of the four members Enquiry Committee. Needless to state, the principles of natural justice would be adhered to and the procedure laid down in law shall be followed.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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