

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

WRIT PETITION NO. 11952 OF 2022

Jabbar Jamiroddin Kotwal
and another

.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Ramesh V. Naiknavare, Advocate for the Petitioners.
Mrs. G. L. Deshpande, A.G.P. for the Respondent Nos. 1 to 3.

**CORAM : SHARMILA U. DESHMUKH, J.
DATE : 10TH FEBRUARY, 2023.**

FINAL ORDER :

. By this petition the challenge is to the orders dated 26th September, 2014 and 13th September, 2022 passed by the Reference Court.

2. Order dated 26th September, 2014 was passed by the Reference Court, whereby the reference was sent back to the office of the Land Acquisition Officer, Osmanabad without passing any award. Subsequently, by an application dated 21.12.2017, the petitioners sought recall of order of 26.09.2014, which came to be rejected by order dated 20.06.2022.

3. Heard learned counsel appearing for the parties.

4. Learned counsel for the petitioners have placed reliance on

the judgment of this Court dated 03.02.2023 in Writ Petition No. 14666 of 2021 in the case of **Shrimant Narayan Rathod Vs. The State of Maharashtra and another** and dated 17.08.2022 passed in Writ Petition No. 2649 of 2021 in the case of **Kundlik S/o Limbraj Gore Vs. The State of Maharashtra and others**.

5. A detailed order has been passed by this Court on 03rd February, 2023 in Writ Petition No. 14666 of 2021. This Court has held that the order of Reference Court under the Land Acquisition Act has to comply with form of the award prescribed by Section 26 of the Land Acquisition Act (for short "L. A. Act"). Admittedly the reference was filed U/Sec. 18 of the L. A. Act and the order of 26th September, 2014 sends the reference back to the office of the Land Acquisition Officer without any determination. By no stretch of imagination the said order can be said to be a decision on merits. The reference has been sent back due to non prosecution. As held by this Court in the case of **Kundlik S/o Limbraj Gore Vs. The State of Maharashtra and others** and in the case of **Shrimant Narayan Rathod Vs. The State of Maharashtra and another** reference has to be decided on merits.

6. The issue being covered by both the decisions cited above, the impugned orders dated 26th September, 2014 and 13th September, 2022 are required to be quashed and set aside. It is to be noted that there is considerable delay in as much as the order of sending reference back was passed by the Reference

Court on 20th September, 2014 and the application for recalling was filed on 21.12.2017, which came to be rejected on 13th September, 2022 and as such in my opinion, the petitioner/claimant will not be entitled to any interest from the date of order of sending the reference back i. e. from the date of 26th September, 2014 till the final disposal of the reference.

7. Hence the following order.

O R D E R

A. Order dated 26th September, 2014 passed in L.A.R. No. 517 of 2008 is hereby quashed and set aside.

B. L. A. R. No. 517 of 2008 is hereby restored to its original position.

C. The petitioners-claimants shall appear before the Reference Court on 01.03.2023.

D. The Reference Court shall permit the petitioners - claimants to lead oral and documentary evidence in support of his contention so also permit the respondent-State or the acquiring body, as the case may be, to lead oral and documentary evidence in support of their rival contentions.

E. The concerned Reference Court shall dispose of the Land Acquisition Reference as expeditiously as possible, preferably

within a period of six months from 01st March, 2023.

G. The petitioners - claimants shall not be entitled to any interest on the enhanced amount of compensation, if awarded from the date of dismissal of LAR in default till the final disposal of the LAR by the Reference Court.

H. The writ petition is allowed in the aforesaid terms.

[SHARMILA U. DESHMUKH, J.]

bsb/Feb. 23