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

906 WRIT PETITION NO.14541 OF 2023

SAHEBRAO GENU JADHAV
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND
WRIT PETITION NO.14542 OF 2023

SUKHDEO KACHARU SABLE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND
WRIT PETITION NO.14543 OF 2023

BHIMA GAJANAN KHAIRE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND
WRIT PETITION NO.14544 OF 2023

SHIVRAM BHIKA KHAIRE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND
WRIT PETITION NO.14545 OF 2023

LAHANU KACHARU SABALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

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AND
WRIT PETITION NO.14546 OF 2023

DAGADU KACHARU SABALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND
WRIT PETITION NO.14547 OF 2023

SURYABHAN JAGU THORAT
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND
WRIT PETITION NO.14548 OF 2023

KUNDLIK TRAMBAK JADHAV
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND
WRIT PETITION NO.14549 OF 2023

MIRABAI SHIVRAM KHAIRE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND
WRIT PETITION NO.14550 OF 2023

CHANDRABHAN PUNJA KADAM
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND
WRIT PETITION NO.14551 OF 2023

BHIMABAI PUNJA NAGARE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

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Mr R. K. Temkar, Advocate for Petitioners;
Mr P. K. Lakhotiya, A.G.P. for Respondents/State

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

DATE : 1st December, 2023

PER COURT:

1. All the Petitioners in these Petitions are identically placed. All of them have put forth identical prayer clauses. For ready reference, we are reproducing prayer clauses (B) and (C) of the first Petition i.e. Writ Petition No.14541/2023, hereunder :-

“B. The impugned order dated 07.02.2015, issued by the respondent no.3, thereby disposing of the Land Acquisition References filed by the petitioner U/sec. 18 of the Land Acquisition Act, 1894 for enhanced amount of compensation may please be quashed & set aside, by issuing writ of certiorari or any other appropriate writ, order or directions in the nature of writ of certiorari.

C. The respondent no.3 may please be directed to forthwith refer the Land Acquisition Reference filed by him to the Competent Civil Court for adjudication & determination of enhanced amount of compensation, by issuing writ of mandamus or any other appropriate writ, order or directions in the nature of writ of mandamus.”

2. We appreciate that the learned A.G.P. Shri. Lakhotiya has promptly collected instructions in these matters, after these matters were heard on 29/11/2023, and he apprises us by placing a photostat copy of a communication dated 05/09/2015 with an outward No.178/2015, issued by the Deputy Collector (Land Acquisition No.13), Ahmednagar, addressed to the Advocate Shri. Anil Zumbarlal Aarote, to remove the deficiency in the 15 proceedings, that were filed on 03/08/2015 in the Court. It is also mentioned that, all these proceedings were received by the said Authority on 28/05/2014. The said communication is marked as 'X-1' for identification.

3. The learned Advocate for the Petitioners points out a communication dated 07/02/2015, by the same Authority, which is in the form of an order, copy of which is served upon the Advocate Shri. Anil Zumbarlal Aarote and the Advocate Shri. M. R. Shinde. It pertains to the Applications filed on 28/05/2014 under Section 18 of the Land Acquisition Act, 1894, which have been disposed off, as they were dual filings. He then points out an order by the same Authority, dated 25/07/2019, by which, 15 proceedings were transferred along with stamp duty to the another

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Authority. He then points out a communication dated 24/09/2015, by the same Authority, addressed to the Advocate Shri. Anil Zumbarlal Aarote, with regard to the deficiencies in 20 matters.

4. The learned A.G.P. points out a communication dated 28/05/2014, addressed to the same Authority by the concerned Advocate Shri. Anil Zumbarlal Aarote, wherein he stated that 60 proceedings (Land Reference Applications) are initiated by him and that he would ensure that, all the deficiencies with regard to the stamp duty, shall be removed. He has stated that, on the said date, none of the Claimants had enough amounts to be paid towards stamp duty.

5. The learned A.G.P. fairly submits in the light of the settled position of law that, the proceeding under Section 18 of the erstwhile Land Acquisition Act, 1894, are not accompanied with the stamp duty. The same Authority is merely responsible for scrutinizing the documents/case papers and upon finding them to be in order, are to be transmitted to the Competent LAR Court (Read : **Kashi Ram Namdeo Zambro Vs. State of Maharashtra, 1996 SCC (1) 289; Sambhaji Manaji Chate and anr. Vs. State of Maharashtra and anr., 2003 (2) Mh.L.J. 661;**

and the judgment of this Court, dated 21/03/2018 in Writ Petition No.404/2018 (**Janardhan Hanumantrao Patil @ Salunke and others Vs. State of Maharashtra and others**).

6. In view of the above, it is apparent that, there have been certain lapses on the part of the Claimants. The learned A.G.P. submits that he would not venture into dealing with the aspect, as to whether the concerned lawyer could be said to be responsible, as the litigants are also expected to be diligent. What we find is, that these Claimants are the ultimate sufferers on account of certain shortcomings, which are apparent from the discussion herein above.

7. In view of the above, **all these Writ Petitions are partly allowed**. The impugned orders are quashed and set aside, with the following directions :-

(a) The Competent Authority would permit the Petitioners /Claimants, who are before us, to remove the deficiencies within a period of 45 days from today.

(b) If all deficiencies are cured, the concerned Authority would forward the case papers of these Petitioners to the

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Competent Court for adjudication, without insisting on payment of court-fees /stamp duty towards the Section 18 Applications.

(c) If the Competent Court concludes that, there has been a delay on account of the conduct of the Claimants and/or their representatives/Advocates, the Petitioners would be deprived of the interest component on enhanced amounts for the period of delay, from 28/05/2014 (date of lodging of the proceedings) till the passing of this order.

(d) Needless to state, paragraph No.8 in Sambhaji Manaji Chate and another (supra), based on the observations of the Hon'ble Supreme Court in Kashi Ram Namdeo Zambro (supra), would be kept in focus by the Competent Court while passing appropriate orders.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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