

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.191 OF 2023

Mahadu Ananda Kakad (Decd.) ...Applicants
thru' Legal heirs Parvatabai Mahadu
Kakad & Ors.

V/s.

The State of Maharashtra & Ors. ...Respondents

**WITH
CIVIL REVISION APPLICATION NO.190 OF 2023**

Baburao Ananda Kakad ...Applicant

V/s.

The State of Maharashtra & Ors. ...Respondents

**WITH
CIVIL REVISION APPLICATION NO.189 OF 2023**

Sampat Ganpat Kakad & Anr. ...Applicants

V/s.

The State of Maharashtra & Ors. ...Respondents

**WITH
CIVIL REVISION APPLICATION NO.192 OF 2023**

Dashrath Ananda Kakad (Decd.) ...Applicants
thru' legal heirs Santosh Dashrath
Kakad

V/s.

The State of Maharashtra & Ors. ...Respondents

Mr. Pratik B. Rahade for Applicants.

Ms. Tanaya Goswami, AGP for State.

CORAM: MADHAV J. JAMDAR, J.
DATE: 5th October 2023

P.C.:

1. Heard Mr. Rahade, learned Counsel appearing for the Applicants and Ms. Tanaya Goswami, learned AGP appearing for the Respondents.

2. By the separate impugned orders, in these four Civil Revision Applications the Co-ordination Officer, Land Acquisition, for Collector Nashik rejected the Reference preferred by the respective Petitioners on the ground that the reasons are not given indicating why the award passed under Section 28-A of the Land Acquisition Act, 1894 is not acceptable and that there is delay in filing the Reference. However, it is the contention of Mr. Rahade, learned Counsel appearing for the Applicants that the award under Section 28-A was declared on 1st July 2013 in absence of the claimants and the claimants got knowledge of the same on 16th September 2021 and immediately on 16th September 2021, claimants sought certified copies of the award which was supplied to the claimants on 29th September 2021 and thereafter the Reference was filed on 18th October 2021. Thereafter, the said Respondent No.3 addressed a letter dated

1st September 2022 to the Petitioners stating that the Petitioners have not complied with payment of requisite Court fees, it is not clarified how the Reference is within the limitation and appropriate reasons for filing reference indicating reasons why award is not acceptable are not given. However, it is settled legal position that an enquiry by the Collector under the Land Acquisition Act, 1894 is administrative in nature and is not a judicial proceeding.

3. Mr. Rahade, learned Counsel appearing for the Applicants relies on the decision in the case of **Mohanlal Vs. B.G. Deshmukh and Ors¹**, and more particularly on paragraph 10 which reads as under:

“10. All that could be expected was whether, prima facie, the allegations made by the applicant showed that he was a person interested in the compensation and it was only to this extent that the Collector may satisfy himself before making a reference. **He cannot, however, arrogate to himself, to the exclusion of the Court, the power to decide whether the applicant was a person interested and refuse to make a reference.** In *Smt. Kako Bai v. Land Acquisition Collector, Hissar*, AIR 1956 Punj 231 it was pointed out that the **enquiry by the Collector under the Land Acquisition Act are administrative and not judicial proceedings** although under S. 14 of the Act the Collector has power to summon and enforce attendance of witnesses and to compel production of documents. **It is not open to the Collector to decide an application under S. 18 on**

1 AIR 1985 Bombay 188: 1984 SCC Online Bom 139

merits on the objections raised therein and then refuse to refer the matter to civil Court. All that the Collector can do is to decide whether the formalities laid down in S. 18 have been complied with or not. I respectfully agree with this view and I find that the **Special Land Acquisition Officer was not at all justified in refusing to make a reference under S. 18(1) of the Land Acquisition Act."**

(Emphasis added)

4. It is also significant to note that the Applicants have raised grounds for filing Reference. They have complied with the requirement of Court fee stamp as per letter dated 1st September 2022 and the limitation is also explained. It is for the Court to decide on merits of the case including whether the Reference is within the limitation.

5. Accordingly, the impugned order passed by Respondent No. 3 by which respective References were disposed of is quashed and set aside and the Collector, Nashik is directed to refer the respective applications to the Civil Court as provided under Section 28 (A-3) of the Land Acquisition Act, 1894. However, it is clarified that all the contentions on merits of both parties are expressly kept open.

6. The Civil Revision Applications are accordingly allowed in above terms, however, with no order as to costs.

(MADHAV J. JAMDAR, J.)