

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 748 OF 2020

Omprakash s/o Manikrao Vaidya,
 Aged about 44 years,
 Occupation : Agriculturist,
 R/o. Plot No. 13, Omkar Nagar
 Deoli, Tq. Deoli, Dist. Wardha.

..... **Petitioner**

...Versus...

(1) State of Maharashtra,
 through Collector, Wardha,
 District Wardha.

(2) Special Land Acquisition Officer,
 Cum-Deputy Collector (Land
 Acquisition), Vidarbha Irrigation
 Development Corporation (Lower
 Wardha Project), Wardha.

..... **Respondents**

 Mr. A. S. Dhore, Advocate for the petitioner
 Mrs. K. R. Deshpande, A.G.P. for the respondents

CORAM : ROHIT B. DEO AND M. W. CHANDWANI, JJ.

DATE : 7-7-2023

ORAL JUDGMENT : (PER ROHIT B. DEO, J.)

Rule. Rule made returnable forthwith. With consent,
 heard finally.

2. The petitioner is invoking writ jurisdiction being
 aggrieved by re-determination of the compensation under Section

28-A of the Land Acquisition Act, 1894 (Act).

3. Section 28-A of the Act reads thus :-

“[28-A. Re-determination of the amount of compensation on the basis of the award of the Court. -

(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the

Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.]”

Sub-section (3) provides appellate remedy to any person who is aggrieved by the re-determination and the remedy is to seek reference under Section 18 of the Act.

4. Faced with the obstacle of the existence of the statutory remedy, learned counsel Mr. Dhore submits that the statutory remedy is not available in view of the lapsing of period of limitation.

5. It is well settled that writ jurisdiction cannot be invoked by a person who has permitted the limitation to lapse. If any authority is necessary, reference may be made to the decision of the Constitution Bench decision of the Hon’ble Supreme Court in *A. V. Venkateswaran, Collector of Customs, Bombay Vs. Ramchand Sobhraj Wadhwani and another* [AIR 1961SC1506].

6. The petition is dismissed.

(M. W. Chandwani, J.)

(Rohit B. Deo, J.)

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