



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

919 WRIT PETITION NO. 2157 OF 2022

Bhausahab Vitthalrao Shinde

VERSUS

The State Of Maharashtra And Others

...

Advocate for the Petitioner : Mr. Patil Shashikiran N.

AGP for Respondents-State : Mrs. K. R. Jamdhade

Advocate for Respondent No.3 : Mr. B. V. Virdhe

...

CORAM : R. M. JOSHI, J.

Dated : July 05, 2024

PER COURT :-

1. Heard.
2. Petitioner is original claimant in LAR No.98/2001. Admittedly impugned order dated 27/03/2012 came to be passed after recording evidence of the claimant. After the Reference was dismissed in March 2012, writ petition came to be filed in March 2021.
3. Learned Counsel for the petitioner submits that since the impugned order is not passed on merits, the same cannot sustain and in view of the law settled by this Court a writ petition is maintainable against such order. It is his submission that due to the fault of the Advocate, party cannot be made to suffer, and hence, he prays for setting aside the impugned order and relegating matter back to the Reference Court for its decision on merits.
4. Learned Counsel for respondent submits that the petitioner has been adopting dilatory tactics, and as such, he would not be entitled to

recovery any interest on enhanced compensation, even if this Court relegates the matter back to the Reference Court for its decision afresh. In response thereto Counsel for the petitioner has relied upon following decisions of this Court to submit that interest can be denied up to the date of dismissal of Reference.

(1) *Bharat Laxmidas Thakkar vs. The State of Maharashtra, Writ Petition No.1448/2021, decided on 20/10/2021,*

(2) *Vilas Shankarrao Kulkarni and Another vs. The State of Maharashtra, Writ Petition No.8609/2022, decided on 18/10/2022,*

(3) *Dnyanoba s/o Gopa Pawar vs. The State of Maharashtra, Writ Petition No.2773/2021, decided on 03/05/2023.*

5. In the instant case, the Reference is of year 2001. For inaction of petitioner, the same is dismissed in the year 2012. Petitioner waits for nine long years to file writ petition before this Court. Said petition is decided in the year 2024. All these aspects clearly indicate that the petitioner has always intended not to complete the proceedings as early as possible. The obvious reason for the same would be the mandatory interest payable @ 15 % per annum. Payment of such interest is from the public exchequer, i.e. taxes paid by the common people. Long delay caused in filing writ petition and no efforts being taken for early

disposal, only inference which can be drawn is that, pendency of litigation is with an intention to earn 15% statutory interest, which would be never received otherwise.

6. This Court finds that the Judgments cited supra do not take into consideration the fact that there is statutory interest @ 15 % per annum payable to the claimant on the amount of compensation to be granted for compulsory acquisition. This Court is also required to consider to the bona fides of the parties before passing any order of denial or grant of interest. The petitioner though alleges against his Advocate of negligence but no steps seems to have been taken against him. This is reason therefore is nothing but an excuse which is sought to be given for getting the order impugned setting aside. This Court, therefore, finds that though in the facts of the present case, the impugned order deserves to be set aside and LAR No.98/2001 would be relegated back to the Reference Court for its decision on merit, petitioner would not be entitled to seek any interest on enhanced amount, if granted by the Reference Court till today. He however would be entitled to receive interest on the compensation awarded by Special Land Acquisition Officer, as per law.

7. Since the Reference is of the year 2001, the Reference Court is

directed to decide the same on merit within a period of six months. In case Reference Court comes to the conclusion that proceeding is not decided early for the reason attributable to petitioner, the said aspect be taken into consideration.

8. Petition stands allowed in above terms.

(R. M. JOSHI, J.)

vj gawade/-.