



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

16 WRIT PETITION NO. 6558 OF 2024

MANJULABAI NARSING GIRI DIED THROUGH LRS SARUBAI BABU GIRI
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR

.....
Advocate for the Petitioner : Mr. Chillarge Subhash S.
AGP for the Respondents/State : Mr. B.A. Shinde
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CORAM : Y.G. KHOBRAGADE, J.
DATE : 18.09.2024

PC:-

1. Heard advocate Mr. Chillarge the learned counsel appearing for the Petitioners and Mr. Shinde the learned AGP for the Respondent No.1.
2. By the present petition the Petitioners are challenging the judgment and award dated 16.12.2014 passed by the learned Jt. C.J.S.D., Udgir in L.A.R. No.427/2012 (Old No.871/1996).
3. The learned counsel appearing for the Petitioners canvassed that the Petitioners are the legal heirs of Manjulabai w/o Narsingiri, the original claimant who died on 19.02.2014 during the pendency of Reference New No.427/2012 (Old No.871/1996), therefore the Petitioner No.1A – Sarubai w/o Babugiri who is legal heir of Manjulabai had filed applications Exh.6 and

8 for bringing the legal heirs on record. Accordingly, on 10.10.2014 the learned Reference Court passed an order below Exh.6 and 8 and directed the legal heirs of Manjulabai to be impleaded as legal representatives, however, none of the legal heirs of Manjulabai or their lawyer got amended the clause title of the reference, so also, the legal heirs of the original claimant failed to adduce the evidence though sufficient opportunities were granted. Ultimately, on 05.11.2014 the learned Reference Court passed the order below Exh.1 and granted one more opportunity to carry out the amendment in the clause title of the Reference till the next date without fail, failing which understanding was given to close the right to adduce their evidence.

4. In spite of said order the Petitioners who are legal heirs of original claimant Manjulabai did not appear in the matter and neither complied with the directions issued by the learned Trial Court nor they sought further time. Therefore, lastly on 12.12.2014 the learned Reference Court passed the order below Exh.1 and closed the evidence of the claimant/legal heirs of original claimant and the matter was posted for next date for evidence of the Respondents but the Respondents also failed to adduce the evidence. Accordingly, the evidence of both the sides were closed. On 16.12.2014, the learned Reference Court passed the impugned judgment and award holding that both the parties failed to produce the copy of award or any record

pertaining to the land acquisition proceeding. Since the burden lies upon the claimant to establish that the compensation awarded is inadequate and there is need to enhance the same but the original claimant as well as the legal representatives of the original claimant failed to adduce any evidence to substantiate their claim.

5. Since the claimants through their legal heirs prayed for enhancement of compensation by raising reference under Section 18 of the Land Acquisition Act, 1894, therefore, the burden lies upon the claimant to prove about exact market rate of the acquired land or any sale transaction nearby the acquired land and in absence of such documentary evidence no claim for enhancement of compensation can be considered. In the case in hand, though the Petitioners who are legal heirs of the original claimants were provided number of opportunities but no such opportunities are availed by these Petitioners, therefore, on 16.12.2014, the learned Reference Court passed the impugned order and dismissed the reference.

6. Needles to say that on 15.04.2024 the Petitioners have instituted the present petition challenging the judgment and order dated 16.12.2014 passed by the Reference Court in LAR No.427/2012 in (Old No.871/1996) after lapse of 9 years. There is delay and laches while challenging the said order and no any explanation has been provided for not instituting the present

petition within the reasonable period and as to why delay of 9 years caused. Therefore, I do not find any substance in the present petition and hence it is dismissed.

[Y.G. KHOBRADE, J.]