



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

1 WRIT PETITION NO. 6545 OF 2024

Kalinda Kakasaheb BhisePetitioner

VERSUS

The State of MaharashtraRespondent

.....

Mr. R. P. Adgaonkar, Advocate for the Petitioner.

Mr. B. A. Shinde, AGP for the State.

AND

WRIT PETITION NO. 6544 OF 2024

Saudagar w/o Maruti Bhise .. Petitioner

VERSUS

The State of Maharashtra .. Respondent

Mr. R. P. Adgaonkar, Advocate for the Petitioner.

Mr. B. A. Shinde, AGP for the State.

AND

WRIT PETITION NO. 9572 OF 2023

Dattatraya s/o Pandurang Bhise & others .. Petitioners

VERSUS

The State of Maharashtra & others .. Respondents

Mr. R. P. Adgaonkar, Advocate for the Petitioners.

Mr. B. A. Shinde, AGP for the State.

CORAM : R. M. JOSHI, J.

DATE : 11th NOVEMBER, 2024.

PER COURT :

1. At the outset, learned counsel for both the sides consent to take up Writ Petition Nos. 6544/2024 and 9572/2023 on today's board for hearing and disposal.

2. By consent of both sides, the petitions are taken up for final hearing at the stage of admission.

3. These petitions arise out of LAR No. 361/2009, 350/2009 and 349/2009 respectively which were dismissed by the Civil Judge, Senior Division, Latur by interim order dated 08.10.2012.

4. It is the case of petitioners that they are the owners and in possession of the land acquired by the respondents. Notification dated 02.02.2005 was published under Section 4 of the Land Acquisition Act. The land of the petitioners was acquired by the Government by private negotiation and agreed to pay rental compensation. It is claimed by petitioners that the compensation

awarded is inadequate and hence reference was raised before the reference court.

5. Learned counsel for petitioners submits that though acquisition of land was by way of private negotiation, it does not pertain to the compensation but for taking over possession of the subject land. It is his contention that the reference court has dismissed the reference since petitioners/original claimants did not adduce any evidence. It is his further contention that the petitioners have right to get reasonable compensation and merely because they were unable to adduce evidence, their right to receive such reasonable and adequate compensation cannot be denied.

6. Learned AGP vehemently opposed the petitions by contending that the references are pending since 2009 and for long period of time no steps were taken. In any case, it is his contention that the references were dismissed in the year 2012 itself and present petitions are filed after about 12 years thereafter.

7. There cannot be any dispute made with regard to the fact that this is a case of compulsory acquisition by the Government.

Petitioners are entitled for adequate and reasonable compensation for such compulsory acquisition. At the same time, this Court cannot ignore the statement made on behalf of the State that the present petitions are filed after 12 years of dismissal of references. A balance can be maintained by denying interest to the petitioners if they succeed in the aforesaid references from the date of passing of the order impugned till date. In view of above, petitions stand allowed in terms of prayer clause 'B'. petitioners shall not be entitled to seek any interest on the enhanced amount if granted by the reference Court from the date of dismissal of reference till its restoration.

8. Reference Court is also directed to take into consideration the aspect as to whether the petitioners are diligent in pursuing reference before it. If it is found that the petitioners are not so diligent and the whole intention of the petitioners is to drag the litigation to earn more interest (statutory interest @ 15% per annum), the interest may be denied to the petitioners for the whole period.

(R. M. JOSHI)
Judge