



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

Writ Petition No.577 of 2023

LATE GUMFABAI NARAYAN PAHURKAR, LATE SHREERAM NARAYAN PAHURKAR,
AND LATE VIJAY N. PAHURKAR THR. LRS

VS

THE STATE OF MAHA., THR. COLLECTOR, AKOLA AND ORS.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.B. Darekar, Advocate for the Petitioner/s
Shri C.A. Lokhande, AGP for the Respondent Nos.1 and 2/State
Shri M.A. Kadu, Advocate for the respondent No.3

CORAM : ANIL S. KILOR, J.

DATED : 11.01.2024

1. Heard.
2. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.
3. In this petition, the order and Exh.37 dated 04.11.2016 in Land Acquisition Case No.100 of 2003 passed by the Civil Judge Senior Division, Akola, rejecting the application for setting aside abatement of the reference and for bringing the legal representatives of the deceased claimant on record and the subsequent order below Exh.1, dismissing the petition in view of the order below Exh.37, are under challenge.
4. The ground on which the application was rejected is that there is an inordinate delay of six years to file the application Exh.37. However, the petitioners have filed an affidavit dated 09.01.2024 on record, waiving the interest from the date of

demise of the original claimant till the date of bringing the legal heirs of the deceased claimant.

5. Since the matter relates to the land acquisition, in view of the judgment of the Hon'ble Supreme Court of India, in the case of *New Okhla Industrial Development Authority ..vs.. Rameshwar @ Ramesh Chandra Sharma*¹ and as the petitioners have waived interest from the date of demise of claimant till the legal heirs are brought on record, no prejudice would be caused to the other side, if the application Exh.37 is allowed.

6. Accordingly, the undertaking is accepted, with a condition that the petitioners would not claim interest on any statutory amount from the date of demise of the claimant till they are brought on record. According, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The orders below Exh.1 and Exh.37 dated 04.11.2016 passed by Civil Judge Senior Division, Akola, are hereby quashed and set aside and consequently, the application below Exh. 37 is hereby **allowed**.
- (iii) The orders dated 12.06.2018 and 07.02.2020 passed in M.J.C. No.1124 of 2016, are hereby quashed and set aside.
- (iv) LAC No.100/2013 is restored back to its original file.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]