



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 822 OF 2019

Champalal Motilal Kahate & othersPetitioners

VERSUS

The State of Maharashtra & othersRespondents

Mr. M. B. Ubale, Advocate for the Petitioners.

Mrs. Kalpalata Patil Bharaswadkar, AGP for the State.

CORAM : KISHORE C. SANT, J.

DATE : 19th NOVEMBER, 2025.

PER COURT :

1. Heard learned Advocates for the parties.
2. The Petitioners had filed reference under Section 18 of the Land Acquisition Act bearing LAR No. 234/2010 in the Court of learned Civil Judge Senior Division, Vaijapur. In the said proceeding, 'evidence close' order came to be passed on 27.07.2018. The Petitioners, later on came to know that one Shri Shamlal Ratansing Chamwal, who was working as Agricultural Officer, was required to be examined as a witness for the purpose of giving evidence as regards fruit bearing trees. Petitioners, therefore, filed an Application exhibit 56 praying for setting aside 'evidence close' order and to allow them to lead further evidence. The said Application came to be

rejected by order dated 02.01.2019. The Petitioners, thus, are before this Court.

3. Learned Advocate for the Petitioners submits that earlier the Petitioners were not aware about the report submitted by the Taluka Agricultural Officer before acquiring the land. His evidence is necessary to prove the entitlement of the Petitioners as regards fruit bearing trees. Soon after 'evidence close' pursis, they filed an Application seeking setting aside the said order. The learned Trial Judge rejected the Application as there is no pleading in the Application and two witnesses are already examined before closing of the evidence. It is only when the matter was placed for argument, the Application came to be filed and rejected. He submits that on technical grounds the Application is rejected. The impugned order deserves to be quashed and set aside.

4. The State has filed a reply. Learned AGP justifies the impugned order. She submits that reference is filed in the year 2007. When reference was at the stage of argument, the Application is filed clearly to protract the reference. The State Government has to pay interest at heavy rate for the period till the enhanced compensation is

paid. Ultimately, it is the public exchequer who suffers. She thus opposes the Petition.

5. Learned Advocate for the Petitioners, during the course of argument, relied upon order dated 07.01.2019 passed by this Court in Writ Petition No. 14363/2018 (Vitthalsingh Mahasing vs. The State of Maharashtra & others). In the similar situation, this Court had allowed the Writ Petition. The Application filed by the Petitioner therein was allowed. Witness summons was directed to be issued to the same witness who is sought to be examined in the present case. By passing appropriate order, the Court took care of the interest to be paid.

6. Considering the above, this Court finds that the present Petition deserves to be allowed. Petition is, therefore, allowed. Order passed on Application Exhibit 56 is quashed and set aside. Said Application is allowed. Witness summons be issued to Shri Shamlal Ratansing Chamwal within two weeks from today. The Petitioners to ensure that the witness remains present and is examined on the date of his first appearance. The Trial Court to dispose of the reference in any case by the end of 31st March 2026. Petitioners shall not be

entitled to interest for the period from making of the Application till decision of the reference.

(KISHORE C. SANT)
Judge

dyb