

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 WRIT PETITION NO. 8975 OF 2024



Raisingh S/o Khemchand Harne
Thr his Special Power Of Attorney Holder
Namdeo S/o Raising Harne
Age – 39 years, Occu – Agril,
R/o : Survey No.157/1, Ghushneswar Colony,
Harsul, Chh. Sambhajinagar.
Tq. & dist.Chh. Sambhajinagar ...Petitioner

VERSUS

1. The State Of Maharashtra
Through the Collector,
Chh. Sambhajinagar
Tq & Dist. Chh. Sambhajinagar
2. The Special Land Acquisition Officer,
J. P. Chh. Sambhajinagar.
Tq. / & Dist. Chh. Sambhajinagar
3. The Agricultue Produce Market Committee,
(A.P.M.C), Chh. Sambhajinagar.
Tq. & dist. Chh. Sambhajinagar ...Respondents

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Mr. Dhananjay A. Mane, Advocate for the Petitioner
Dr. K. B. Patil-Bharaswadkar, GP for Respondent Nos.1 and 2/State
Mr. S. S. Thombre for Respondent No.3

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CORAM : ROHIT W. JOSHI, J.

DATED : 30th JULY 2025

ORAL JUDGMENT :-

1. The land of the petitioner was acquired under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”) for respondent no.3-APMC. The petitioner was not satisfied with the

amount of compensation as determined by the Land Acquisition Officer in the award passed under Section 11 of the Act and therefore made an application to the Collector for making reference to the Civil Court under Section 18 of the Act. The Collector accordingly made a reference pursuant to which Land Acquisition Reference No.37 of 1987 (subsequently re-numbered as Land Acquisition Reference No.202 of 1997) came to be registered.

2. Perusal of reference proceeding will demonstrate that only State of Maharashtra was arrayed as respondent in the proceeding. The acquiring body i.e. respondent no.3 was not arrayed as a respondent in the reference petition. The reference proceeding was initially dismissed on account of failure on the part of the petitioner to lead evidence on 17.11.2014. The petitioner filed a Writ Petition before this Court challenging the said order which was allowed and the proceedings were remitted to the Civil Court for deciding the reference on merits. After the matter was remitted to the learned Reference Court, the petitioner filed an application vide 'Exhibit-26' for adding the acquiring body i.e. present respondent no.3/APMC as a respondent to the said reference proceedings. Vide order dated 22.12.2023 the learned Reference Court has rejected the said application on account of delay. The present petition is filed challenging the said order dated 22.12.2023.

3. By referring to Section 18 of the Act, the learned Advocate for the petitioner contends that all that a land owner is required to specify in his application to the Collector for making a reference under Section 18 is that he is not satisfied with the compensation computed by the Land Acquisition Officer and the grounds on which he seeks enhancement. The learned Advocate further contends that the land of the petitioner is acquired compulsorily by exercising eminent domain and therefore it is the duty of the State as also the acquiring body to pay just, fair and adequate compensation to the petitioner for the land acquired and therefore the learned Reference Court ought to have allowed the application for addition of respondent no.3-the Acquiring Body as respondent to the reference so that the reference is decided on merits and not rejected on technicality.

4. Per contra, the learned Advocate for respondent no.3-APMC strongly opposes the petition. He supports the order by contending that although the Land Acquisition Act is a beneficial legislation, land owners cannot be allowed to have a free run. Land owners are also duty bound to act diligently and prosecute the proceedings by exercising due diligence. The learned Advocate has placed reliance on a judgment in the matter of *Ashok Daga Patil Vs. Daga Yadav Patil & Ors.* reported in *2003 (1) Mh. L. J 686* to contend that an application

for amendment which is filed beyond the prescribed period of limitation cannot be allowed. He has also placed reliance on judgment of this Court dated 09.10.2024 in Writ Petition No.10831 of 2023 delivered at the Principal Seat in Civil Appellate Jurisdiction to contend that parties seeking amendment must establish due diligence. He further argues that liability of interest for such inordinate delay on the part of the petitioner-land owner cannot be fastened on the acquiring body.

5. The learned Counsel for respondent no.3. also contends that the present reference was initially dismissed vide judgment dated 17.11.2014 on account of failure on the part of the petitioner to lead evidence and it was restored vide order dated 16.03.2023 passed by this Court in Writ Petition No.3019 of 2023.

6. Indeed, there is a delay on the part of the petitioner in filing application for amendment. What transpires is that the petitioner had made an application for reference to the Collector stating that he was not satisfied with the compensation amount awarded. The Collector has accordingly made a reference as per Section 18 of the Act. While making reference, the Collector ought to have scrutinized the application properly and should have ensured that the reference petition does not become a casualty of technicalities. The learned Collector has failed in his duty in ensuring that the acquiring body

Narwade

was added as a party in reference. I agree with the contention of the learned Counsel for the petitioner that since his land is acquired under the provisions of the Act it is his right to get just and fair compensation. However, I also find substance in the contention of Mr.Thombre, appearing for respondent no.3-APMC (acquiring body) that the application for amendment in order to join the acquiring body as party is filed after a period of around 35 years and it will be unfair to fasten the liability of interest on the acquiring body for the intervening period.

7. The learned Advocate for respondent no.3 contends that in view of Section 53 of the Act, the provisions of CPC are applicable to reference proceedings. The contention although is correct, it does not absolve the responsibility of all the concerned including the Collector as also reference Court to ensure that all persons who are required to be arrayed as parties are arrayed as parties in the reference proceedings.

8. As regards judgments relied upon by Mr. Thombre there cannot be any quarrel with the ratio laid down in the said judgment. However, the present petition pertains to compulsory acquisition of land under the Act. It is duty of the State as also the Courts while dealing with references and appeals, to ensure that the land owner gets just and fair compensation for his land. It needs to be mentioned

that in several judgments this Court as also the Hon'ble Supreme Court of India has condoned the delay of inordinate years in filing appeals filed by land owners by imposing conditions of waiver of interest. In the considered opinion of this Court, adopting such a course will subserve the ends of justice in the present set of facts.

9. The learned Counsel for the petitioner draws attention to judgment dated 23.12.2021 passed in Land Acquisition Reference No.131 of 1997. The petitioner in the said reference case is his real brother. The reference in the said case was filed near about same time when reference in the present case was filed. The learned Advocate states that the petitioner in the present petition will be satisfied if compensation is awarded on principle of parity in terms of the judgment dated 23.12.2021 passed in the case of his brother because both lands, according to him, are adjacent to each other. He contends that the reference made by his brother in the year 1989 was decided in the year 2021 and interest is awarded for the entire period in the said case.

10. The conduct of the present petitioner speaks for itself and is writ large on the face of record. The reference is filed in the year 1989 till the year 2014, the petitioner did not lead evidence in the matter as a consequence of this the reference was dismissed on 17.11.2014. The petitioner filed petition challenging the said order

dated 17.11.2014 in the year 2023 vide Writ Petition No.3019 of 2023. The said petition is allowed on 16.03.2023. Thereafter present application for addition of acquiring body is filed in the month of August 2023. Having regard to the manner in which the petitioner has prosecuted the proceeding, in the considered opinion of this Court ends of justice would be subserved by directing that the petitioner will not be entitled for any interest on the enhanced amount of compensation, if any, for period from 17.11.2014 till 31.08.2023.

11. Hence the following order :

O R D E R

- i. Writ Petition is allowed.
- ii. Order dated 22.12.2023 passed by 4th Joint Civil Judge, Senior Division, Aurangabad below application at Exhibit-26 is quashed and set aside.
- iii. Application below Exhibit-26 in the proceedings of Land Acquisition reference No.202 of 1997 pending before the learned 2nd Joint Civil Judge, Senior Division, Aurangabad is allowed.
- iv. It is directed that petitioner land owner will not be entitled for interest on the enhanced amount of compensation, if any from 17.11.2014 till 13.08.2023.

[ROHIT W. JOSHI, J.]