



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1844 OF 2014 WITH
CA/14319/2023

1. Kashinath Motiram Patil,
Died through LRs,
Tulshiram Kashinath Patil,
Age: 74 yrs, Occ: Agriculture,
2. Narayan Manku Gawali,
Died through LRs,
- 2A- Ramesh Narayan Gawali (Beedkar),
Age: 50 yrs, Occ: Agriculture,
3. Mahadu Manku Gawali,
Died through LRs,
- 3-A) Tukaram Mahadu Gawali (Beedkar),
Age: 47 yrs, Occ: Agriculture,
- 3-B) Yamunabai Mahadu Gawali (Beedkar),
Age: 65 yrs, Occ: Agriculture,
4. Subhash Shankar Patil,
Age: 60 yrs, Occ: Agriculture,
5. Suresh Shankar Patil,
Age: 55 yrs, Occ: Agriculture,
6. Manjulabai Gulab Patil,
Died through Lrs,
- 6-A) Anusayabai Pandurang Patil,
Age: 76 yrs, Occ: Agriculture,
- 6-B) Wanubai Vedu Patil
Age: 70 yrs, Occ: Agriculture,
7. Yashwant Kautik Patil,
Age: 65 yrs, Occ: Agriculture,
8. Prakash Atmaram Patil,

Age: 59 yrs, Occ: Agriculture,

Petitioner No. 1 to 8 All

R/o: Mahindale, Tq. & Dist. Dhule

9. Yasin Shaikh Bagwan,
Died through LRs,
Manubi Shaikh Yasin
Died Through L.Rs,

9-A) Rabiya Shaikh Yusuf
Age 50 years Occu: Household
R/o: Dhule, Tq. & Dist. Dhule

9-B) Nasimbi Isak
Age 45 years, Occu: Household
R/o: Dhule, Tq. & Dist. Dhule

10. Gajmal Mahadu Patil,
Died through LRs,

10A Himmatrao Gajmal Patil,
Age: 60 yrs, Occ: Agriculture
R/o: Mahindale, Tq. & Dist. Dhule

11. Rambhau Sambhu Bhoi,
Died through LRs,

11-A) Sitabai Rambhau More,
Age: 75 yrs, Occ: Agriculture,

11-B) Vasant Rambhau More
Age: 55 yrs, Occ: Agriculture,

11-C) Mohan Rambhau More
Age: 60 yrs, Occ: Agriculture,

11-D) Shailabai Subhash Shinde
Age: 62 yrs, Occ: Agriculture,

11-E) Suresh Rambhau More
Age: 50 yrs, Occ: Agriculture,

11-F) Ramesh Rambhau More
Age: 52 yrs, Occ: Agriculture,

- 11-G)Ganesh Rambhau More
Age: 45 yrs, Occ: Agriculture,
- 11-H)Sanjay Rambhau More
Age: 46 yrs, Occ: Agriculture,
All R/o: Dhule Tq. & Dist. Dhule
- 11-1)Mangala Anil Wadekar
Age: 40 yrs, Occ: Household,
R/o: Nashik, Tq. & Dist. Nashik
- 11-J)Vandana Yuvraj Wadekar
Age: 45 yrs, Occ: Household,
R/o: Nashik, Tq. & Dist. Nashik
- 12. Sadashiv Baburao Patil,
Age: 77 yrs, Occ: Agriculture,
R/o: Mahindale, Tq. & Dist. Dhule
- 13. Govind Arjun Patil,
Age: 73 yrs, Occ: Agriculture,
R/o: Mahindale, Tq. & Dist. Dhule
- 14. Dhrupadabai Arjun Patil
(Through G.P.A.)
- 14-A Govind Arjun Patil,
Age: 73 yrs, Occ: Agriculture,
R/o: Mahindale, Tq. & Dist. Dhule
- 15. Dayaram Bhaga Patil,
Died through LRs,
- 15-A)Girjabai Dayaram Patil, (died thro LRs]
Age:-yrs, Occ: Agriculture,
- 15-B)Kasturabai Vishwas Patil
Age: 70 yrs, Occ: Agriculture,
- 15-C)Sumanbai Punwant Patil
Age: 65 yrs, Occ: Agriculture,
- 15-D)Venubai Vitthal Patil
Age: 60 yrs, Occ: Agriculture,

15-E)Vatsalabai Bhagwan Patil
Age: 55 yrs, Occ: Agriculture,

15-F)Dhanubai Bhikanrao Patil
Age: 52 yrs, Occ: Agriculture,

15-G)Nawal Dayaram Patil
Age: 58 yrs, Occ: Agriculture,

15-H)Kailas Dayaram Patil
Age: 55 yrs, Occ: Agriculture,

All R/o: Dhule Tq. & Dist. Dhule ...Petitioners

VERSUS

1. The Collector,
Dhule District, Dhule.
2. The Deputy Collector/
Special Land Acquisition Officer,
(General) Patbandhare Project, Dhule.
3. The Commander Special Reserve Force (S.R.P.)
Group No.6, in front of S.P.Office, Dhule
...Respondents

- Mr. A. B. Kale, Advocate for the Petitioners
- Mr. S. K. Shirse, AGP for the Respondents/State
- Mr. S. S. Wagh h/f Mr. S. T. Shelke, Advocate for
Applicant in CA/14319/2023

CORAM : R. M. JOSHI, J
RESERVED ON : JULY 30, 2025
PRONOUNCED ON : AUGUST 05, 2025

JUDGMENT :

1. Petitioners take exception to the order dated
29.07.2008 passed by the Civil Judge, Senior Division,

Dhule dismissing the references filed by the Petitioners under Section 18 of the Land Acquisition Act, 1894 (for short '**the Act**') and order dated 07.09.2012 passed by the Special Land Acquisition Officer/Deputy Collector (for short '**SLAO**') rejecting Applications of the Petitioners under Section 28-A of the Act on the ground that there is no award passed by the Reference Court under Section 18 of the Act in order to allow the same compensation to the Petitioner under Section 28-A of the Act.

2. The facts, which led to the filing of this Petition, can be narrated in brief as under:

Petitioners are agriculturist and their land came to be acquired for special reserved police camps. The acquisition proceedings were initiated by issuing notification under Section 4 of the Act on 11.09.1979. An award came to be passed on 09.09.1986 by the SLAO. The Petitioners challenged the land acquisition proceedings before Civil Court by filing RCS No. 359/1989. This suit was dismissed in default on 16.09.1995. Petitioners thereafter filed reference under Section 18 of the Act on 28.04.1992. An

application came to be filed along with reference contending that the claims are filed within limitation. The Registry of the Reference Court objected to the registration of the references on the ground of limitation. The 2nd CJSD, Dhule passed order dated 30.08.2000 on applications for condonation of delay directed the Registry to register the references. The record indicates that references came to be registered in the year 2000. The statement of claim was resisted by the Respondent on merit as well as taking exception to the maintainability of the reference on the point of limitation. The reference Court framed issues including issue of maintainability of the reference on the point of limitation. There was no objection raised by the parties to the issues framed. The parties led evidence. Reference Court by judgment dated 29.07.2008 dismissed references on the ground of bar of limitation.

3. Petitioners applied for the certified copy of the said order passed by the Reference Court on 01.10.2008 and received copy on 26.04.2009. Thereafter, not only the order of Reference Court was not challenged but an application was moved before the SLAO

under Section 28-A of the Act claiming the compensation as determined by the Reference Court in the reference, which was dismissed on the ground of bar of limitation. The SLAO by impugned order dated 07.09.2012 rejected the application by holding that said application would be maintainable only in case where there is order in reference under Section 18 of the Act and other agriculturists/land owners in the common acquisition can make application for the same compensation. Petitioner are now challenging the said order of SLAO of refusing to exercise powers under Section 28-A and to grant relief and also the order dated 29.07.2008 passed by the CJSD dismissing the reference under Section 18 of the Act.

4. Learned Counsel for the Petitioners submit that the Petitioners have lost their agricultural lands and that they are entitled for reasonable compensation. It is his submission that the Reference Court though has rejected references, however, has determined the market value of the lands which is more than award passed by SLAO. It is his submission that such enhanced compensation having been determined by the Reference

Court, there was no justification for SLAO to reject the applications under Section 28-A of the Act. It is his submission that the interpretation of Section 28-A needs to be done in such manner keeping in mind legislative intent to benefit the agriculturist who have lost their land in compulsory acquisition.

5. Without prejudice to the said submissions, it is argued that the order passed by the Reference Court rejecting the reference on the point of bar of limitation is not tenable for the reason that it was not open for the Reference Court to review the order passed by the same Court in miscellaneous applications condoning the delay. According to him, since such order of condonation of delay was not challenged by the Respondent, there occurred no occasion for the Reference Court to enter upon the issue of limitation and hence, the order of reference Court rejecting the references deserve interference and that references be allowed. In support of his submissions, he placed reliance on following judgments: *Shrimant Vithoba Koli (Since Deceased) vs. State of Maharashtra and Others, 2018 SCC OnLine Bom 7244* & *Union of India vs. Hansoli*

Devi and Others, Appeal (Civil) No. 9477/1994.

6. Learned AGP appearing for Respondents opposed the said submissions by referring to provisions of Section 28-A of the Act, which according to him would apply only in case where there is already an award passed by the Competent Court in favour of any of the landholders in the same acquisition and it is only then a person interested in all other lands covered by the same notification and are aggrieved by the award of the SLAO are entitled to seek the same amount of compensation. It is his submission that since there is no award passed in the references made by the Petitioners, question of application of Section 28-A does not arise. He placed reliance on the judgment of Hon'ble Supreme Court in case of **Union of India and Another vs. Association of Unified Telecom Service Providers of India and Others, (2011) 10 SCC 543** in order to submit that Section 5 of the Limitation Act, 1963 has no application to the reference under Section 18 of the Act. He argues that once admittedly there is delay in filing the reference, the same ought to have been dismissed without deciding the merit thereof.

According to him, it is his submission that once the reference itself was not maintainable, question of considering the determination of the compensation would not arise.

7. In order to appreciate the submissions sought to be made by the rival parties, it would be relevant to take into consideration certain relevant facts may be at the cost of repetition which read as follows:

The Petitioners are landholders/agriculturists of their respective lands situated at Mahindale. By notification dated 11.09.1979 under Section 4 of the Act the procedure of acquisition had commenced. Award came to be passed on 09.09.1986. Admittedly, Petitioners received the compensation in the year 1989, which was accepted under protest. Thereafter, RCS No. 359/1989 came to be filed challenging the acquisition itself and not the compensation paid against the said acquisition to the Petitioners, nor it was not for enhancement of compensation. This suit was dismissed for want of prosecution on 16.09.1995. It is thereafter references were sought to be made and miscellaneous applications were filed in the year 1998 for seeking

condonation of delay. The CJSD, Dhule by order dated 30.08.2000 condoned the delay and directed references to be registered and put up for further orders and disposal thereof in accordance with law. References were registered in the year 2000. The statement of claim of the Petitioners were resisted by the Respondents on merit as well as on the point of limitation.

8. Reference Court framed issues vide Exh. 24. Amongst other issues on merit, issue of maintainability of the reference is also framed. The Petitioners did not challenged the said issue and proceeded to lead evidence in the matter. After hearing both sides considering the facts on record, though the Reference Court has decided the market price of the acquired land, however, consequently held that references itself not maintainable and rejected the same. No award came to be passed holding entitlement of the Petitioners of the amount of compensation as determined.

9. The above facts clearly indicates that Petitioners never objected to the framing of the issue of limitation and subjected themselves to the

jurisdiction of the said Court for the purpose of decision on the issue. Thus, now Petitioners are estopped from claiming that the issue of limitation, which came to be decided against them, could not have been gone into by the Reference Court while deciding the references in view of previous order dated 30.08.2000.

10. Apart from this, perusal of the order passed by the Reference Court indicates that Reference Court had taken into consideration the settled position of law, which does not permit the entertainment of condonation of delay in preferring reference. At this stage, it would be relevant to take note of provision of Section 18 of the Act, which reads thus:

Section 18 - Reference to Court

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds

on which objection to the award is taken:

Provided that every such application shall be made--

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2) or within six months from the date of the Collector's award, whichever period shall first expire.

11. Section 18(2) provides that the application taking objection to the award shall be filed within 6 weeks from the date of Collector's award when the person making it was present or represented before the Collector at the time of award. As per clause (b), in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2) or within six months from the date of Collector's award, whichever period shall first expire. Section 12(2) requires the Collector to give notice of his award to such person interested who are not personally present or represented when the award is made. Thus, as per the said provision, depending upon the

contingencies as explained therein, the maximum period of limitation for filing the application for objecting the award has been provided and in any case, this six months in maximum from the date of award passed by Collector. Here in this case, admittedly, in the year 1989 itself the amount of compensation was received by the Petitioners though under protest. The order passed by the CJSD dated 30.08.2000 indicates that admitted delay of 2 years, 3 months and 13 days came to be condoned. In this regard a reference can be made to the judgment of Supreme Court in case of *State of Karnataka vs. Laxuman, 2006 (1) Land Acquisition Cases 13/(2005 (8) SCC 709)*, which has been relied upon by Reference Court in its order. Thus, it was not open for the said Court to condone the delay in view of provision of Section 18(2) and settled position of law by the Supreme Court.

12. Now question arises as to whether it would be open for the Petitioners to take exception to the order of Reference Court and answer thereto would be in negative for more than one reasons. As recorded earlier, the Petitioners have never raised objection

for framing of issue of limitation afresh and subjected themselves to the jurisdiction of the Court to that extent. Thus, there was acquiescence on the part of Petitioners and once no objection was raised then, it would not be open for the Petitioners now to claim that the Court had no jurisdiction to decide the said issue, after it came to be decided against the Petitioners. Secondly, there was no jurisdiction vested into the Court to condone delay by applying Section 5 of Limitation Act. Moreover, the circumstances as they appear from the record also indicate that the Petitioners have practically accepted the said judgment of the Reference Court and therefore, filed an application under Section 28-A of the Act on the basis of determination of the market price of the acquired land. The Petitioners, therefore, are estopped from taking exception to the order dated 29.07.2008 by filing Petition in the year 2014 i.e., after over a period of six years. The principles applicable for condonation of delay, by keeping in mind the nature of legislation, cannot be applied to the stage of filing reference in view of period of limitation prescribed therefor.

13. Now coming to the issue raised by the Petitioners with regard to the applicability of Section 28-A of the Act to the present case, it would be relevant to refer to said provision, which reads thus:

28A. Re-determination of the amount of compensation on the basis of the award of the Court.-

(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a

reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.

14. A plain reading of the said provision indicates that it has been brought to the statute book by way of amendment in the year 1984 by Act 68 of 1984 in order to give benefit of the award passed by the Reference Court on determination of any amount of compensation over and above award passed by the Collector under Section 11 to all other persons interested in the said lands covered by the said notification were entitled to the same compensation without afresh determination, if application is filed within three months from the date of the award of the Court. The Collector after receipt of said application is required to give notice to all person interested and giving them opportunity of being heard to make an award determining the amount of compensation payable to them.

15. The intention of the statute, therefore, is that once in an acquisition to any landholder amount has been granted by way of compensation over and above compensation granted by Collector, there accrues right in favour of other land owners/holders from same acquisition, to seek such compensation determined by invoking Section 28-A of the Act. At this stage, it would be relevant to take note of Full Bench judgment of Supreme Court in case of Union of India and Another vs. Hansoli Devi and Others, (2002) 7 SCC 273, wherein it is held that even in case of dismissal of an application seeking reference under Section 18 of the Act, on ground of delay, it amounts to not having made an application. Thus, in case an application is dismissed on ground of delay or other technical ground, such person would be entitled to maintain an application under Section 28-A of the Act. It would be fruitful to reiterate paragraphs 9 to 11 of the said judgment, which reads thus:

9. Before we embark upon an inquiry as to what would be the correct interpretation of Section 28-A, we think it appropriate to bear in mind certain basic principles of interpretation of statute. The rule stated by Tindal, CJ in Sussex Peerage case,

(1844) 11 Cl & Fin 85 : 8 ER 1034, still holds the field. The aforesaid rule is to the effect: (ER p. 1057)

"If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the lawgiver."

It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In Kirkness v. John Hudson & Co. Ltd. 1955 (2) ALL ER 345, Lord Reid pointed out as to what is the meaning of "ambiguous" and held that: (All ER p.366 C-D)

"A provision is not ambiguous merely because it contains a word which in different context is capable of different meanings and it would be hard to find anywhere a sentence of any length which does not contain such a word. A provision is, in my judgment, ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning."

It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then the court may look into the purpose for which the statute has

been brought and would try to give a meaning, which would adhere to the purpose of the statute. Patanjali Sastri, CJ in the case of *Aswini Kumar Ghose v. Arabinda Bose*. 1953 SCR 1, had held that it is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute. In *Quebec Railway, Light Heat & Power Co. v. Vandray* AIR 1920 PC 181, it had been observed that the Legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the legislature will not be accepted except for compelling reasons. Similarly, it is not permissible to add words to a statute which are not there unless on a literal construction being given a part of the statute becomes meaningless. But before any words are read to repair an omission in the Act, it should be possible to state with certainty that these words would have been inserted by the draftsman and approved by the legislature had their attention been drawn to the omission before the Bill had passed into a law. At times, the intention of the legislature is found to be clear but the un-skillfulness of the draftsman in introducing certain words in the statute results in apparent ineffectiveness of the language and in such a situation, it may be permissible for the court to reject the surplus words, so as to make the statute effective. Bearing in mind the aforesaid principle, let us now examine the provisions of Section 28-A of the Act, to

answer the questions referred to us by the Bench of two learned Judges. It is no doubt true that the object of Section 28-A of the Act was to confer a right of making a reference, (sic on one) who might have not made a reference earlier under Section 18 and, therefore, ordinarily when a person makes a reference under Section 18 but that was dismissed on the ground of delay, he would not get the right of Section 28-A of the Land Acquisition Act when some other person makes a reference and the reference is answered. But the Parliament having enacted Section 28-A, as a beneficial provision, it would cause great injustice if a literal interpretation is given to the expression "had not made an application to the Collector under Section 18" in Section 28-A of the Act. The aforesaid expression would mean that if the land-owner has made an application for reference under Section 18 and that reference is entertained and answered. In other words, it may not be permissible for a land owner to make a reference and get it answered and then subsequently make another application when some other person gets the reference answered and obtains a higher amount. In fact in Pradeep Kumari's case the three learned Judges, while enumerating the conditions to be satisfied, whereafter an application under Section 28-A can be moved, had categorically stated (SCC p.743, para 10) "the person moving the application did not make an application to the Collector under Section 18". The expression "did not make an application", as observed by this Court, would mean, did not make an effective application which had been

entertained by making the reference and the reference was answered. When an application under Section 18 is not entertained on the ground of limitation, the same not fructifying into any reference, then that would not tantamount to an effective application and consequently the rights of such applicant emanating from some other reference being answered to move an application under Section 28-A cannot be denied. We, accordingly answer question No. 1(a) by holding that the dismissal of an application seeking reference under Section 18 on the ground of delay would tantamount to not filing an application within the meaning of Section 28-A of the Land Acquisition Act, 1894.

10. So far as question 1(b) is concerned, this is really the same question, as in question 1(a) and, therefore, we reiterate that when an application of a land owner under Section 18 is dismissed on the ground of delay, then the said land owner is entitled to make an application under Section 28-A, if other conditions prescribed therein are fulfilled.

11. Coming to the second question for reference the receipt of compensation with or without protest pursuant to the award of the Land Acquisition Collector is of no consequence for the purpose of making a fresh application under Section 28-A. If a person has not filed an application under Section 18 of the Act to make a reference, then irrespective of the fact whether he has received the compensation awarded by the Collector with or without protest, he

would be a person aggrieved within the meaning of Section 28-A and would be entitled to make an application when some other land owner's application for reference is answered by the reference Court. It is apparent on the plain language of the provisions of Section 28-A of the Act. Otherwise, it would amount to adding one more condition, not contemplated or stipulated by the Legislature itself to deny the benefit of substantial right conferred upon the owner.

16. It is thus clear that for the purpose of application of Section 28-A i.e. for re-determination of amount of compensation on the basis of award of the Court, the pre-condition is that there is an award of the Court which allows compensation in cases of the amount awarded by the Collector under Section 11 of the Act. Thus, the determination of quantum of compensation is not contemplated but what is relevant is that the Court allows to the Applicant any amount of compensation in cases of amount awarded by the Collector. This could be done in case where reference is maintainable. In the event the reference is not tenable on the point of limitation, such determination of market value is of no consequence. Such determination is done only for the reason that in an

Appeal, if the reference is held within limitation, there is determination on merit. Thus, unless the reference is allowed and the Application is allowed the compensation in cases of the amount as determined by the Collector, the question of applying the same to other person does not arise. Moreover, the said provision more than sufficiently indicates that Section 28-A would have application to the other person than the one an application in the reference. Thus, Petitioners would have been justified in making application under this provision, provided there was some other land owner's application is answered by the Reference Court. By no stretch of imagination, an application can be maintained by Petitioners whose application on reference is rejected and there is no other order in respect of any other land owners.

17. In the light of above facts, the Petitioners have failed to make out the case to cause interference into the order passed by the SLAO under Section 28-A of the Act so also the Petitioners having been estopped from taking exception to the order passed by the Reference Court and even otherwise, in view of non

application of Section 5 of Limitation Act to Reference, are not entitled for any relief.

18. As a result of above discussion, Petition stands dismissed. Pending application(s), if any, stands disposed of.

(R. M. JOSHI, J.)