



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

47 WRIT PETITION NO. 1898 OF 2021

SUBHASH SHRIDHARRAO DESHPANDE THROUGH LRS SUNANDA
SUBHASH DESHPANDE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

Mr.M.K. Deshpande, Advocate for the petitioners.
Mr.K.S. Patil, AGP for the respondent-State.

CORAM : KISHORE C. SANT, J.
DATE : 04.02.2025

PC :-

01. Heard learned Advocates for the parties for some time. In the petition, a grievance is raised against an order of rejection of Reference filed under section 18 of the Land Acquisition Act.

02. Few facts necessary for consideration of this petition are that the land belonging to the petitioners from Gat No. 132 admeasuring 67 R and from Gat No. 134 admeasuring 2 Hectare 9 R situated at Javalgaon, Tal. Ambajogai, Dist. Beed, came to be acquired by letter No. 13/91 by the Special Land Acquisition Officer. The petitioners received the notice on 13.09.1995 for compensation. Petitioner No.2 appeared and received payment under protest on 13.09.1995. A reference was made and filed in the office of learned SLAO, Jayakwadi, Project No.4, Beed on

20.10.1995 along with Court fees. Thereafter, the SLAO by communication dated 04.11.1995 communicated that the reference under section 18 is not within period of limitation and same came to be rejected. There is further communication to the learned Advocate for the petitioners, through whom the reference was filed, dated 08.12.1995 informing that the reference is rejected as it is not in time.

03. Learned Advocate for the petitioners sent a notice dated 12.12.1995 replying to the communication dated 04.11.1995 that the petitioners did not receive notice under section 12(2) of the Land Acquisition Act. The Reference was filed from the date of awarding the amount within six months. The reference is thus within limitation. It was also requested to forward Reference to the Court. There was not reply as appears from the record. The learned Advocate, thereafter sent notice dated 15.01.1999. However, it was specifically pointed out that before rejecting the Reference under section 18 on the ground of limitation, the notice is required to be given calling for personal hearing, no such opportunity is given. However, this is also not replied as per the contentions of the petitioners. The petitioners have now approached this Court stating that there was no communication from the Authorities. They waited for a response and now they have approached this Court.

The petitioners have produced on record copies of these documents and the originals are shown to this Court. There is no dispute about the same. The petitioners tendered on record photocopy of the original documents. The same are taken on record.

04. Learned Advocate Mr. Deshpande for the petitioners vehemently argues that the Reference was filed within six months from the date of awarding the amount. There is endorsement of the Authority showing that the proposal is received along with Court fee stamp on 20.10.1995. Since the same was within six months, there was no reason to reject the Reference. If at all the Reference was to be rejected on account of delay, opportunity of hearing ought to have been given to the petitioners. He relies upon judgment in the case of **Super Construction Company Vs. State of Maharashtra and Another, reported in 1995 (2) Mh.L.J. 286**. Para No.5 of the said judgment reads as under :-

"5. Moreover, even in a case where the Special Land Acquisition Officer comes to a prima facie finding that the reference application is barred by limitation, it is incumbent on his part, before dismissing the application on that ground, to give an opportunity of hearing to the claimant to show cause as to why it should not be rejected as barred by limitation. In that event, the claimant may get an opportunity to satisfy the officer concerned that on a proper interpretation of the provisions of the Act

dealing with the period of limitation, the reference application is within time or in the alternative may file an application showing cause for the delay and praying for condonation thereof. It may be mentioned here that the controversy whether the provision of the Limitation Act including Section 5 thereof applies to proceedings under the Land Acquisition Act or not is no more res integra in view of the latest Full Bench decision of this Court where it has been held that the said provisions are applicable to the proceedings under the Land Acquisition Act also."

. He, thus, submits that in any case the order rejecting the Reference is bad in law, as the Reference was filed in time. His second submission is that in any case opportunity of hearing ought to have been given to the petitioner to show as to how the Reference is within limitation. He thus submits that the petition deserves to be allowed.

05. Learned AGP vehemently opposes this petition. His first objection is in respect of delay and laches. He submits that the impugned order is passed on 20.10.1995 and since thereafter no petition was filed. Even the last notice issued by the learned Advocate for the petitioners was sent on 15.01.1999. The petitioners have approached this Court after 22 years even from the issuance of notice by learned Advocate for the petitioners. He submits that on seeing the original papers, there is no dispute about those documents. The conduct would disentitle the petitioners to seek any relief. He submits that if ultimately

the Reference is entertained and allowed, same would cause loss to the public exchequer as the respondents will have to pay interest to the petitioners for all these years and prays for rejection of the petition.

06. This Court has heard both the sides and has gone through the petition and original papers. So far as delay and laches is concerned, it is stated in the petition that in similar references, orders were passed in 2018. The petitioners were under hope that they would also receive compensation at enhanced rate, as in between there was no communication between them and the learned Advocate. So far as rights of the petitioners is concerned, this Court finds that valuable right of the petitioners is involved as their land is acquired by the respondents. The care of anxiety of the learned AGP can be taken by directing that the petitioners would not be entitled to get any interest and other benefits on the enhanced amount for the period from 1995 till filing of the petition i.e. 02.12.2019. This Court finds substance in the submissions of learned Advocate for the petitioners. Considering the judgment in the case of **Super Construction Company (supra)** and considering all the above, this Court is inclined to allow this writ petition.

07. In the result, the Writ Petition is allowed. The learned

Collector to forward Reference as stated in prayer clause (C) of this petition within 8 (eight) weeks from today to the Reference Court. The Reference Court to decide the Reference within 1 (one) year thereafter. As stated above, the petitioners shall not be entitled to receive interest on the enhanced amount from 10.10.1995 till the date of filing of the petition. The Writ Petition accordingly stands disposed off with no order as to costs.

[KISHORE C. SANT, J.]