



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

940 WRIT PETITION NO. 10522 OF 2024

BUGABAI SHIVSING JONWAL
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

Ms. Maya R. Jamdhade, Advocate for the Petitioner
Mr. S. G. Sangle, Addl. G.P. for the Respondent/State
Mr. A. D. Sherkhane, Advocate for Respondent No.3.

CORAM : R. M. JOSHI, J.

DATE : 12th SEPTEMBER, 2025

P.C. :-

1. By consent of both sides, heard finally at the stage of admission.
2. Petitioner is original claimant in LAR No. 166/2011. Admittedly, impugned order dated 26/06/2018 came to be passed without recording evidence of the claimant as after granting many opportunities to lead evidence, claimant failed to avail it. Reference therefore, stood dismissed by passing impugned order.
3. According to learned Counsel for Petitioner, due to the fault of the Advocate, party cannot be made to suffer, and hence, she prays for setting aside the impugned order and relegating matter back to the Reference Court for its decision on merits.
4. Learned AGP for Respondent/State submits that the

Petitioner has been adopting dilatory tactics, and as such, he would not be entitled to get any interest on enhanced compensation, even if this Court find it appropriate to relegate the matter back to the Reference Court for its decision afresh.

5. Learned Counsel for contesting Respondent has placed reliance on the judgment of Hon'ble Supreme Court in case of ***Rajneesh Kumar and Anr., Versus Ved Prakash***¹. There cannot be any dispute made with regard to the proposition laid down by the Hon'ble Supreme Court in the said judgment. Pertinently, the said judgment pertains to the case, wherein there was a dispute between private parties.

6. The Hon'ble Supreme Court time and again has emphasized on the fact that wherever there is a compulsory acquisition of land, it is a right of a person who has lost the land to get a reasonable amount of compensation and delay if any in such cases needs to be condoned.

7. As far as present case is concerned, unfortunately the learned Advocate of the Petitioner died. In such circumstances, it cannot be said that this is a false excuse being sought to be made by the Petitioner. Since, learned Advocate for the Petitioner has made a statement, on instructions, that the Petitioner would not claim any interest on the amount of compensation if granted by the Reference Court from the date of framing of issues still restoration of the

¹ S.L.P.(Civil) Nos.935-93 of 2021

reference, the grievance sought to be made by the Respondent is being taken due care.

8. Hon'ble Supreme Court in case of *Chimanlal Hargovinddas vs. Special Land Acquisition officer, Poona and Anr., reported in AIR 1988 SC 1652*, has held that it is not open for Reference Court to pass order relying upon evidence before Special Land Acquisition officer. Similarly, it is settled law that a Reference under Land Acquisition Act, cannot be dismissed in default. Thus, merely because Reference Court does not use word dismissal of Reference in default, it does not become an order on merit. A reference could not have been decided except on merit. This Petition, therefore, deserves to be entertained and order impugned deserves to be set aside. LAR No. 166/2011 needs to be relegated back to Trial Court for decision afresh.

9. This Court, therefore, finds the impugned order deserves to be set aside and LAR No. 166/2011 is required to be relegated back to the Reference Court for its decision on merit, Petitioner, however, would not be entitled to seek any interest till today on enhanced amount, if granted by the Reference Court. It is however clarified that he would be entitled to receive interest on the compensation awarded by Special Land Acquisition Officer, as provided by law, excluding above stated period.

10. Since the Reference is of the year 2011, the Reference Court is directed to decide the same on merit within a period of six months from today. In case Reference Court comes to the conclusion that proceeding is not decided early for the reasons attributable to Petitioner, the said aspect be taken into consideration while passing final order.

11. Parties are directed to appear before the Reference Court on 1st October, 2025. It is clarified that if the Petitioner fails to pursue the said reference, it would be open for the Reference Court to pass any adverse order against the Petitioner. Petition stands allowed in above terms.

(R. M. JOSHI, J.)

ssp