

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 480 OF 2018

Kalyan Udhav Nil

... Applicant

Versus

The Executive Engineer, Sina
Kolegaon Project And Ors.

... Respondents

WITH

CIVIL REVISION APPLICATION NO. 502 OF 2018

Vetal Balbhim Nil

... Applicant

Versus

The Executive Engineer, Sina
Kolegaon Project And Ors.

... Respondents

WITH

CIVIL REVISION APPLICATION (ST) NO. 31216 OF 2018

Kisan @ Krushna Kushaba Jagdale (Decd.)

Thr. Lrs. Narayan Krushna Jagdale & Ors.

... Applicants

Versus

The Executive Engineer, Sina
Kolegaon Project And Ors.

... Respondents

WITH

CIVIL REVISION APPLICATION (ST) NO. 31224 OF 2018

Babasaheb Sarjerao Jagdale

... Applicant

Versus

The Executive Engineer, Sina
Kolegaon Project And Ors.

... Respondents

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**WITH
CIVIL REVISION APPLICATION (ST) NO. 766 OF 2020
WITH
INTERIM APPLICATION NO. 2530 OF 2021**

Ramchandra @ Rama Bhagwan Shingan (Decd.)
Thr. Lrs.Godabai Ramchandra Shingan & Ors. ... **Applicants**
Versus
The Executive Engineer, Sina
Kolegaon Project And Ors. ... **Respondents**

**WITH
CIVIL REVISION APPLICATION (ST) NO. 770 OF 2020
WITH
INTERIM APPLICATION NO. 2529 OF 2021**

Babasaheb Baburao Halkare ... **Applicant**
Versus
The Executive Engineer, Sina
Kolegaon Project And Ors. ... **Respondents**

**WITH
CIVIL REVISION APPLICATION NO. 639 OF 2018**

Khandu Balbhim Nil ... **Applicant**
Versus
The Executive Engineer, Sina
Kolegaon Project And Ors. ... **Respondents**

Mr. Prashant D. Patil *for the Applicants.*
Mr. Mayur S. Sonawane, *AGP for Respondent / State.*

CORAM : SANDEEP V. MARNE, J.
DATE : 12 FEBRUARY 2025.

P.C. :

1) Civil Revision Application (st) No. 766 of 2020, Civil Revision Application (st) No. 770 of 2020 and Civil Revision Application No. 639 of 2018 are not on board. On the request of the learned counsel appearing for Applicants, those Civil Revision Applications are taken on board.

2) Revisionary jurisdiction of this Court is invoked challenging the decisions of Special Land Acquisition Officer (SLAO) No. 4, Karmala, Solapur refusing to entertain the References filed by Applicants on 14 December 2004 on the ground of delay. It appears that the award was made on 31 October 2003. Intimation of the award was given the Applicants on 5 November 2004. The References were accordingly filed on 14 December 2004. The References were thus within limitation and the SLAO ought to have entertained the same on merits.

3) The only problem for the Applicants is the inordinate delay in challenging the decision of SLAO dated 20 October 2005/27 October 2005. Against rejection of References on 20 October 2005/27 October 2005, the Applicants have filed these applications in the year 2018.

4) Mr. Patil, the learned counsel appearing for the Applicants would rely upon order passed by this Court in ***Ramdas Sitaram Nil Vs. The Executive Engineer And Ors.*** Civil Revision Application No. 248 of 2012 decided on 28 June 2012, which reads thus:

1 Admit, with the consent of the learned Counsel for the parties heard forthwith.

2 The revisionary jurisdiction of this Court under Section 115 of the Civil Procedure Code, has been invoked against the order dated 4-4-2005 passed by the Special Land Acquisition Officer No.4, Karmala, Solapur, by which Order the Special Land Acquisition officer who has informed the Applicant that since the application for a reference under Section 18 of the Land Acquisition Act was not filed within time, the same stands rejected.

3 In so far as the filing of the reference is concerned, it is required to be noted that in paragraph 3 of the affidavit in reply filed on behalf of the Respondents, it has been stated that notice under Section 12(2) of the Land Acquisition Act was served on the Applicant on 4-11-2004 and the application for reference was filed by the Applicant on 4-12-2004. However, the Applicant had prayed for two months time being granted to pay the Court fees thereon. Hence, in so far as the filing of the reference is concerned, the affidavit in reply discloses that the same was within the time stipulated under Section 18(2) of the Land Acquisition Act, it is only since the same was not accompanied by the Court fees that it seems that the application for making a reference was rejected. The Learned Counsel for the Applicant relied upon the Judgment of this Court in the matter of **Sambhaji Manaji Chate & Anr. Vs. State of Maharashtra & Anr.** reported in **2003 (2) MhLJ 661**, wherein it is held that the factum of fees being not paid with the reference cannot come in the way of the Petitioners. It is held by the Division Bench that the Land Acquisition Officer can pass a conditional Order on the application for reference if it is filed within time and forward it to the Civil Court, if otherwise the Applicant has complied with all the requisites. Paragraph 10 of the said Judgment is material and is reproduced herein under:

"10. In view of the clarification given by the Apex Court, it is clear that the person preferring an application under section 18 of the Land Acquisition Act is required to pay court fees. However, this amount could be remitted/deposited even before the Reference Court and therefore it is appropriate for the SLAO to pass a conditional order on the application for Reference preferred by the Petitioners and to forward it to the Civil Court.

4. In the light of the Judgment of the Division Bench, the above Civil Revision Application would have to be allowed and is accordingly allowed and made absolute in terms of prayer clause (b). The Special Land Acquisition Officer is directed to pass an appropriate order making a reference to the Civil Court as the Court fees have already been paid by the Applicant.

5) This court has repeatedly taken a view that in a Reference, opportunity must be given to a party to prove the entitlement for

higher compensation. In the present case, though there was no delay in filing the References, the same have been erroneously rejected by the SLAO.

6) In my view, an opportunity needs to be given to the Applicants to prove their claim on merits before the SLAO. The SLAO has erroneously rejected the References on the ground of delay. However, the Applicants had the responsibility of checking the status of their Reference Applications by visiting the office of SLAO. They appear to have slept over their right for over 13 long years and have belatedly filed the present Revision Applications challenging the decision of the SLAO dated 20 October 2005. The Applicants cannot be permitted to take benefit of their wrong. In such circumstances, while setting aside the decision of the SLAO, Applicants cannot be paid any interest in respect of the period from 20 October 2005 till the date of filing of the Applications.

7) Consequently, the Revision Applications partly succeed, and I proceed to pass the following order:

i) The orders passed by the SLAO rejecting References on the ground of delay are set aside.

ii) Reference Applications restored on the file of SLAO No. 4 Karmala (Solapur) to be heard and decided afresh and after granting opportunity of production of evidence to the Applicants, the SLAO shall decide the remanded References on their own merits without being influenced any of the observations made by this Court in the present order.

iii) In the event of award of any additional compensation in favour of the Applicants, he shall not be entitled to payment of interest thereon from 20 October 2005 till the dates of filing of the present Revision Applications. Applicants shall place on record before the SLAO the dates of filing of each Revision Applications.

8) With the above directions the Revision Applications are partly allowed and disposed of. There shall be no order as to costs.

9) In view of disposal of all Civil Revision Applications, all Interim Applications do not survive and the same shall stands disposed of.

[SANDEEP V. MARNE, J.]