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

WRIT PETITION NO. 2596 OF 2020

Shamrao Joma Chavan
(since deceased) through Legal Heirs
Rajaram Shamrao Chavan & Ors.

.. Petitioners

Versus

The Collector, Kolhapur and Ors.

.. Respondents

.....

- Ms. Kalyani Tulankar, Advocate for Petitioners.
- Mr. A.I. Patel, Addl. G.P. a/w. Ms. Sulbha Chipade, AGP for Respondent – State.

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 25, 2025.

P.C.:

1. Present Writ Petition impugns order dated 18.02.2019 passed by the learned Deputy Collector (Land Acquisition) No.12, Kolhapur – Respondent No.2 whereby Application filed by Petitioners under Section 28A of the Land Acquisition Act, 1894 (for short “**the said Act**”) is rejected on the ground of it being barred by limitation. The said impugned order is appended at Exhibit ‘B’ - page No.16 of the Writ Petition.

2. The facts germane for adjudication of the present Writ Petition are as follows:-

2.1. Petitioners are owners of land bearing Gut No.79 admeasuring 0.43 R, Mauje Uttur, Taluka Ajara, District Kolhapur. In

the year 2009, Respondents initiated acquisition proceedings for the purpose of Ambeohol Medium Irrigation Project, Kolhapur and acquired the land from Village Uttur, Taluka Ajara, District Kolhapur wherein Petitioners' land parcel was affected and acquired for the said public purpose.

2.2. On 03.05.2013 Award under Section 11 of the said Act was passed, pursuant to which one of the land owner whose land was acquired under the said acquisition proceedings preferred Land Reference No.24 of 2014 under Section 18 of the said Act seeking enhanced compensation before the District Court, Kolhapur. By judgement and order dated 17.06.2017, the Land Reference was partly allowed and compensation awarded by SLAO was enhanced to Rs.6,00,000/- per hector.

2.3. On the basis of judgment and order dated 17.06.2017, on 18.09.2017 Petitioners filed Application under Section 28A of the said Act before Respondent No.2 for re-determination of the amount of compensation awarded to them in accordance with the judgement and order dated 17.06.2017 owing to commonality of Section 4 Notification.

2.4. By impugned order dated 18.02.2019 Respondent No.2 rejected the Application under Section 28A filed by Petitioners on the ground that there was a delay of 3 days after expiry of the limitation

period of 90 days in filing the said Application.

2.5. Hence, the present Writ Petition.

3. Ms. Tulankar, learned Advocate for Petitioners would submit that Respondent No.2 erred in interpreting the provisions of Section 28A of the said Act. She has drawn my attention to Section 28A of the said Act and would submit that the limitation period prescribed under the said Section is 'three months' from the date of Award of the Court and not '90 days' as interpreted by the Respondent No.2.

3.1. She has drawn my attention to the impugned order at page No.16 read at page No.18 of the Writ Petition to submit that Respondent No.2 in paragraph No.2 therein has stated that during the hearing on 15.05.2018 when Petitioners were called upon for submitting certified copy of the Award dated 17.06.2017, on 10.07.2018 they submitted the certified copy which was applied for on 25.05.2018 and collected by them on 20.06.2018 which is after the lapse of 90 days limitation period. She would submit that a plain reading of Section 28A of the said Act would reveal that the said provision nowhere mentions about filing of certified copy of the Award within period of 90 days as recorded by the Respondent No.2. This aspect, she would submit is not germane to the issue at hand for consideration.

3.2. Next she would submit that the term ‘three months’ as appearing in Section 28A of the said Act has to be interpreted as ‘three calender months’ and not ‘90 days’ and would submit that Section 28A is a beneficial legislation intended to remove inequality and to give relief to the inarticulate and poor landowners who are unable to exercise their right of Reference under Section 18 of the said Act and hence the said provision has to be interpreted in a liberal manner.

3.3. In support of her submissions, she has referred to and relied upon the following decisions of the Supreme Court as well as this Court:-

- (i) *Babaji alias Baban Keru Phapale Vs. State of Maharashtra and Anr.*¹
- (ii) *Uttam Jadhav Vs. Vishwanath N. Jadhav and Ors.*²
- (iii) *Bibi Salma Khatoon Vs. State of Bihar and Ors.*³
- (iv) *Smt. Manjuli Vs. Civil Judge, Senior Division, Wardha and Ors.*⁴;
- (v) *Tamal Lahiri Vs. (Kumar) P.N. Tagore*⁵;
- (vi) *Saketh India Ltd. And Ors. Vs. India Securities Ltd.*⁶;
- (vii) *Tarun Prasad Chatterjee Vs. Dinanath Sharma*⁷;
- (viii) *Pushpaben Narayan Rathod Vs. Uttamchand Bhurmal Nahar*⁸ and
- (ix) *State of Himachal Pradesh and Anr. Vs. Himachal*

1 2008 (4) Mh.L.J. 101

2 2012 (3) Mh.L.J. 563

3 (2001) 7 SCC 197

4 1968 SCC OnLine Bom 35

5 (1979) 1 SCC 75

6 (1999) 3 SCC 1

7 (2000) 8 SCC 649

8 1985 Mh.L.J. 757

*Techno Engineers and Anr.*⁹

3.4. After taking me through the above decisions of the Supreme Court as well as this Court, she would contend that time and again Courts have interpreted the term 'month' as being 'calendar month' and not '30 days' as incorrectly interpreted by the Court in the impugned order. She would submit that in the present case if the limitation period of 'three months' is calculated as being 'three calendar months' then the limitation period ends on 17.09.2017 which falls on a Sunday and hence the Application under Section 28A filed by the Petitioners on 18.09.2017 (the next working day) is well within the limitation period of 'three months'.

3.5. In view of her above submissions, she would urge the Court to allow the present Writ Petition in order to entitle Petitioners the benefit of enhancement / re-determination of compensation as per judgement and order dated 17.06.2017.

4. *PER CONTRA*, Mr. Patel, learned Additional GP would vehemently oppose the submissions made by Ms. Tulankar. He would submit that the order dated 18.02.2019 passed by Respondent No.2 is a well reasoned order as per the settled principles of law and hence does not call for any interference. He would submit that law on the issue involved in the present case is well settled and the same does not

⁹ (2010) 12 SCC 210

provide for condonation of delay of even a single day and in the present case there is a delay of 3 days which has been taken into consideration in the order dated 18.02.2019. In support of his submissions he has referred to and relied upon the following decisions of various High Courts:-

- (i) *Shrikrishna Sitaramji Fande and Ors. Vs. State of Maharashtra and Anr.*¹⁰;
- (ii) *Rajveer Singh and Ors. Vs. State of UP and Ors.*¹¹;
- (iii) *Om Prakash and Ors. Vs. State of Uttar Pradesh and Ors.*¹² and
- (iv) *Balwan Singh and Ors. Vs. Govt. of NCT of Delhi and Anr.*¹³

4.1. In view of his above submissions, he would urge the Court to uphold the order dated 18.02.2019 and dismiss the present Writ Petition.

5. I have heard Ms. Tulankar, learned Advocate for Petitioners and Mr. Shaikh, learned AGP for Respondent – State and with their able assistance perused the record and pleadings of the case as also the citations relied upon by them. Submissions made by the learned Advocates have received due consideration of the Court.

6. Two moot questions fall for consideration and determination

¹⁰ AIR 2008 Bombay 64

¹¹ AIR Online 2025 All 204

¹² AIR Online 2020 All 2418

¹³ AIR Online 2025 Del 66

before the Court for adjudication of the present Writ Petition;
“Whether the limitation for filing of Application under Section 28A of the said Act of ‘three months’ can be equated by the Court to a period of ‘90 days’ ?” and “Whether Application under Section 28A filed by Petitioners is within limitation?”

7. To answer the above questions, it is first necessary to understand the definition and interpretation of the expression ‘month’. This Court in the case of ***Babaji alias Baban Keru Phapale*** (1st *supra*) has interpreted the expression ‘month’ while dealing with issue of computation of limitation period of three months as per Section 28A of the said Act and has held that period of limitation as per Section 28A has to be construed as ‘three calendar months’ and not ‘90 days’. While arriving at this conclusion, the Court carried out an exercise of interpretation of the expression ‘month’ which finds mention in paragraph Nos.7 and 8 thereof which is directly relevant to the facts of the present case and it reads thus:-

“7. The definition of ‘month’ appearing in section 35 of the General Clauses Act and section 30 of the Bombay General Clauses Act, 1904 is “month shall mean a month reckoned according to the British Calendar”. Therefore, the view taken by the Special Land Acquisition Officer that the period of three months shall be 90 days is not in accordance with the provisions of law.

. The terminology ‘month’ has been defined in Black’s Law Dictionary as below :-

. Word “month”, unless otherwise defined, means “calendar month,” or time from any day or any of the months as adjudged in the calendar to corresponding day, if any, if not any, to last day, of next month.

. In its ordinary accepted sense the expression "month" means a "calendar month" and not a "lunar month". As to how a calendar month is to be counted from a date which is not the first of the month has been described in paragraph 143 of Halsbury's Laws of England Volume 37 (Third Edition) in the following words:-

. When the period prescribed is a calendar month running from any arbitrary date the period expires with the day in the succeeding month immediately preceding the day corresponding to the date upon which the period starts; save that, if the period starts at the end of a calendar month which contains more days than the next succeeding month the period expires at the end of the latter month.

8. The question in respect of computation of period of six months had fallen for consideration before the Apex court in the matter of *Tamal Lahiri Vs. Kumar P.N. Tagore* reported in 1979 Cri.L.J. 1. In para no. 6 of the said judgment, the Apex court has observed as :-

. The only question which then requires examination is whether the prosecution which was filed on June 19, 1968, was instituted as required by S. 533, "within six months next after the commission" of the offence. An argument was raised in the High Court that 'six months' must be construed to mean 180 days and not six calendar months. The High Court does not appear to have accepted that submission. There the High Court is right, because S. 3 (27) of the Bengal General Clauses Act, I of 1899, defines 'a month' to mean a month reckoned according to the British calendar. The expression 'six months' which occurs in S. 533 of the Act must accordingly be construed to mean six calendar months and not 180 days.

. On consideration of the provisions of the Act as well as the pronouncement referred to above, the limitation is required to be reckoned for filing an application under section 28-A of the Land Acquisition Act in terms of the provisions of the law and the period of limitation shall be three months which shall not necessarily mean 90 days. The arguments advanced by the learned counsel for the applicant that the Land Acquisition Officer has erred in considering the period of limitation for filing an application under section 28-A of the Act to be 90 days, is illegal and shall not have to be accepted."

(emphasis supplied)

8. Thus from the above decision it is confirmed that limitation is required to be reckoned for filing an application under section 28-A of the Land Acquisition Act in terms of the provisions of the law and

the period of limitation shall be three months which shall not necessarily mean 90 days.

9. The Supreme Court in its decision in the case of ***Rameshchandra Ambalal Joshi Vs. The State of Gujarat***¹⁴ while dealing with the issue of computation of the period of 'six months' for presentation of a cheque under Section 138(a) of the Negotiable Instruments Act, 1881 has in paragraph No.12 observed that the period of 'six months' cannot be calculated on 30 days in a month as per British Calendar basis. Paragraph No.12 of the said decision reads thus:-

"12. The first question which calls for our answer is the meaning of the expression "month" : whether it would mean only a period of 30 days and, consequently, whether six months would mean a period of 180 days. The word "month" has been defined under Section 3(35) of the General Clauses Act to mean a month reckoned according to the British calendar. Therefore we cannot ignore or eschew the word "British calendar" while construing "month" under the Act. Accordingly, we are of the opinion that the period of six months cannot be calculated on 30 days in a month basis. Therefore, both the modes of calculation suggested by Mr Ahmadi do not deserve acceptance and are rejected accordingly."

10. The Supreme Court in the decision in the case of ***Himachal Techno Engineers*** (9th *supra*) has while interpreting the words 'three months and 30 days' appearing in Section 34(3) of the Arbitration and Conciliation Act, 1996 held that the Legislature has the choice of describing the periods of time in the same units but it did not do so which means that the Legislature did not intend to equate the period of

¹⁴ Criminal Appeal No.434 of 2014 decided on 18.02.2014

‘three months’ to ‘90 days’ nor intended that the period of ‘30 days’ be taken as ‘one month’. The relevant paragraph Nos.14 to 18 of the said decision are reproduced below:-

“14. The High Court has held that “three months” mentioned in Section 34(3) of the Act refers to a period of 90 days. This is erroneous. A “month” does not refer to a period of thirty days, but refers to the actual period of a calendar month. If the month is April, June, September or November, the period of the month will be thirty days. If the month is January, March, May, July, August, October or December, the period of the month will be thirty-one days. If the month is February, the period will be twenty-nine days or twenty-eight days depending upon whether it is a leap year or not.

15. Sub-section (3) of Section 34 of the Act and the proviso thereto significantly, do not express the periods of time mentioned therein in the same units. Sub-section (3) uses the words “three months” while prescribing the period of limitation and the proviso uses the words “thirty days” while referring to the outside limit of condonable delay. The legislature had the choice of describing the periods of time in the same units, that is, to describe the periods as “three months” and “one month” respectively or by describing the periods as “ninety days” and “thirty days” respectively. It did not do so. Therefore, the legislature did not intend that the period of three months used in sub-section (3) to be equated to 90 days, nor intended that the period of thirty days to be taken as one month.

16. Section 3(35) of the General Clauses Act, 1897 defines a “month” as meaning a month reckoned according to the British calendar.

17. In Dodds v. Walker [(1981) 1 WLR 1027 : (1981) 2 All ER 609 (HL)] the House of Lords held that in calculating the period of a month or a specified number of months that had elapsed after the occurrence of a specified event, such as the giving of a notice, the general rule is that the period ends on the corresponding date in the appropriate subsequent month irrespective of whether some months are longer than others. To the same effect is the decision of this Court in Bibi Salma Khatoon v. State of Bihar [(2001) 7 SCC 197].

18. Therefore when the period prescribed is three months (as contrasted from 90 days) from a specified date, the said period would expire in the third month on the date corresponding to the date upon which the period starts. As a result, depending upon the months, it may mean 90 days or 91 days or 92 days or 89 days.”

11. The aforesaid view has been affirmed by the Supreme Court in its decisions in the case of *State of West Bengal and Ors. Vs. Rajpath Contractors and Engineers Limited*¹⁵ and *R. K. Transport Company Vs. Bharat Aluminium Company Ltd. (BALCO)*¹⁶ wherein the Supreme Court has held that the limitation period prescribed as ‘three months’ in Section 34(3) of the Arbitration and Conciliation Act, 1996 unambiguously demonstrates the legislative intent that the limitation period is ‘three calendar months’ as opposed to ‘90 days’.

12. In the case of *Vimala Jose Vs. AbooBacker and Ors.*¹⁷, the Kerala High Court while interpreting computation of limitation period of ‘six months’ for filing claim petition under the Motor Vehicles (Amendment) Act, 2019 held that calculation of the period of ‘six months’ has to be from the date of the accident and not by counting each day in a month. Relying on the judgement of the Supreme Court in the case of *Bibi Salma Khatoon* (3rd *supra*) it further held that if intention of the legislature for calculation of limitation period is months and not days then it has to be counted accordingly and not otherwise.

13. In the decision of the Supreme Court in the case of *Tamal Lahiri* (5th *supra*) the Supreme Court while dealing with computation of period of ‘six months’ for institution of complaint under the Bengal

¹⁵ (2024) 7 SCC 257

¹⁶ 2025 SCC OnLine SC 717

¹⁷ OP (MAC) No.136 of 2022 decided on 02.12.2022

Municipal Act, XV of 1932 held that the expression ‘six months’ occurring in Section 533 should be construed as ‘six calendar months’ and not ‘180 days’ as per British Calendar.

14. From the foregoing judicial precedents, it is crystal clear that the expression ‘three months’ occurring in Section 28A of the said Act has to be construed as ‘three calendar months’ and not 90 days. Hence at the outset, Respondent No.2 has erred in construing the limitation period of ‘three months’ appearing in Section 28A of the said Act as ‘90 days’ in the impugned order.

15. Next comes the question of computation of limitation period of ‘three months’ from the date of Award dated 17.06.2017. Section 28A of the said Act reads as under:-

“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, required 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.”

16. From the above it is clear that the date on which the Award is pronounced has to be excluded from the computation of limitation period of ‘three months’. Hence in the present case, the limitation period begins to run from 18.06.2017. At this juncture I would like to refer to *Halsbury’s Law of England, Vol. 37, 3rd Edn., Paragraph 143 at page Nos.83-84* which provides for calculation of a calendar month:-

“143. Calendar month running from arbitrary date. When the period prescribed is a calendar month running from any arbitrary date the period expires with the day in the succeeding month immediately preceding the day corresponding to the date upon which the period starts; save that, if the period starts at the end of a calendar month which contains more days than the next succeeding month, the period expires at the end of the latter month.”

17. Applying the above principle, the ‘three month’ limitation period in the present case which begins from 18.06.2017 would expire on 17.09.2017. However 17.09.2017 falls on a Sunday, hence benefit of the same needs to be given to the Petitioners who have filed their Application on the next Court Working day. It is seen that Application under Section 28A of the said Act has been filed by the Petitioners immediately on the next Court working day i.e. on 18.09.2017. It is therefore held that Application under Section 28A of the said Act filed by the Petitioners for re-determination of compensation is filed within

the limitation period of three months in the present case and it is within time. In this view of the matter, I am not inclined to accept the submissions advanced by Mr. Patel, the learned AGP on the ground of limitation.

18. At this stage while in passing, I deem it appropriate to refer to the decision of the Supreme Court in the case of *Narayan s/o Dhondu Sarode and Ors Vs. The Collector, Jalgaon and Anr.*¹⁸ wherein the Supreme Court was faced with a situation wherein the limitation period under Section 28A of the said Act expired on 06.07.1986 which happened to be a Sunday and Application under Section 28A was filed by Appellant therein on 08.07.1986 instead of 07.07.1986. The Supreme Court in exercise of its jurisdiction under Article 142 of the Constitution of India condoned the delay of one day considering the facts and circumstances of the said case. The Supreme Court in the said decision also referred to its earlier decision in the case of *Bir Wati and Ors. Vs. Union of India and Ors.*¹⁹ wherein the Supreme Court had by exercising jurisdiction under Article 142 of the Constitution of India directed the concerned Authority to accept the Application under Section 28A of the Land Acquisition Act. This is accounting for the fact that the persons hailing from agricultural background may be unaware of the legal and procedural requirements under the said Act. Rather the present case is much stronger on facts as alluded to herein above

¹⁸ Civil Appeal No.1632 of 2011 decided on 27.11.2019

¹⁹ (2017) 16 SCC 548

compared to the cases considered by the Supreme Court under Article 142 of the Constitution of India.

19. In view of the above judicial pronouncements and the findings arrived by this Court herein above that the Application under Section 28A of the said Act is filed by Petitioners within limitation period of three months, order dated 18.02.2019 passed by Respondent No.2 is quashed and set aside.

20. Concerned Competent Authority is directed by this Court to adjudicate the Application under Section 28A filed by Petitioners for re-determination of compensation as expeditiously as possible and in any event within a period of 12 weeks from today. Copy of this order shall be placed before the Respondent No. 2 by the Petitioners on 30th June, 2025 at 10.30 a.m. for the said Court / Forum to take cognizance and pass directions for fixing the 28A Application for hearing as per convenience of said Court / Forum.

21. All parties shall act on a server copy of this order downloaded from the High Court website and not insist for a certified copy of this order to delay hearing of the 28A proceedings.

22. With the above directions, Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

RAVINDRA MOHAN AMBERKAR
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