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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 456 OF 2025

Himanshu Udaypuri Gosavi and ors.

.. Applicants

Versus

The State of Maharashtra and ors.

.. Respondents

-
- Mr. Divyesh Jain a/w Mr.Shantanu Kolhe, Advocate for Applicant.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 23, 2025

P. C.:

1. The Applicants have filed Reference proceedings under the provisions of Land Acquisition Act, 1894 (“the said Act”, for short). The said Reference Application is dated 20/05/2011. It is filed with the Deputy Collector (Land Acquisition No.2, Nashik). The reference application is filed within time as prescribed by the said Act. Learned Advocate informs the Court that it is filed within limitation. Prima facie, the only grievance expressed by the competent authority in the impugned order dated 04/08/2025 is that when the Reference Application is filed, the Applicants have not paid the advalorem stamp duty due and payable for filing the statutory Reference Application before the competent authority.

2. Mr. Jain would contend that once the Reference Application is within limitation, then the Reference cannot be dismissed. He would submit that admittedly there is delay in filing the advalorem stamp duty amount. He would draw my attention to the contents of the impugned order which itself states that the Applicants were called upon by the competent authority to deposit the stamp duty amount so that further steps can be taken for forwarding the Reference to the District Court for adjudication in accordance with the provisions of Section 18 read with Section 23 of the said Act. He would submit that by virtue of the impugned order, since the Applicants have not paid the stamp duty amount, the Reference filed under Section 18 of the said Act has been rejected. He would submit that the ground of rejection stated in the impugned order is that the Collector or the Special Land Acquisition Officer is required to enclose the stamp duty payment challan and only thereafter forward the same to the Reference Court i.e. the District Court. He would contend that such a contention cannot be held against the Applicants and application filed by the Applicants cannot be rejected on the ground of non-payment of the Court fee. He would submit that as held by this Court in a catena of judgments and decisions, the owners whose land is acquired have the option of payment of Court fee in the Reference Court. He would report to and rely upon the decision of this Court in the case of **Bapurao Popatrao**

Toradmal Vs. The State of Maharashtra dated 14/10/2022 passed in Writ Petition No. 10659 of 2022 along with companion Writ Petitions, wherein this Court has held that even though Petitions appear to be prima facie barred by delay and latches, the law relating to power of the Deputy Collector (Acquisition) or Land Acquisition Officer to reject the Application made under Section 18 for Reference is well settled and it cannot be rejected for the reason of non-payment of Court fee.

3. I have perused the said decision. Reliance is also placed by learned Advocate on the decision of the Supreme Court in the case of **Kashi Ram Namdeo Zambro Vs. State of Maharashtra** reported in (1996) 1 Supreme Court Cases 289 in support of his aforesaid proposition. While interpreting the provisions of Sections 18(1) and 18(2), the Supreme Court has held that the said Act is a self-contained Code and it does not speak of payment of any Court fee and all that it requires is an application to be made within the prescribed limitation period as contemplated.

4. Both the aforesaid decisions, prima facie, cover the Applicant's case.

5. In view of the above observations and findings, the impugned order date 04/08/2025 is unsustainable in law and the same is

quashed and set aside. Resultantly, the Civil Revision Application succeeds.

6. The Deputy Collector (Land Acquisition No. 2, Nashik) is directed to forward the Reference forthwith to the Reference Court for adjudication. Learned Advocate for Applicants informs the Court that Applicants shall pay advalorem Court fee as applicable in the District Court within a period of 4 weeks from the date of filing of the reference. That liberty is granted by the Court. Subject to payment of the advalorem Court fee, the Reference shall be adjudicated under Section 18 of the said Act strictly in accordance with law thereafter.

7. The present Civil Revision Application stands allowed in the above terms.

[MILIND N. JADHAV, J.]