



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO 4756 OF 2023

t. Rajani Ravindra Deshmukh and others Vs. Sub Divisional Officer, Yavatmal and others)
AND

WRIT PETITION NO 4840 OF 2023

(Smt. Rajani Ravindra Deshmukh and others Vs. Sub Divisional Officer and Land Acquisition Officer, ,
Yavatmal and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.U. Nemade, Advocate for petitioners.
Mr. N.R. Patil, AGP for respondent Nos. 1, 13 and 14/State.
Mr. I.M. Ghongade, Advocate for respondent No. 2 to 12 in WP 4756/2023

CORAM : ANIL S. KILOR & RAJNISH R. VYAS, JJ.

DATED : 12-09-2025.

(P.C.)

Heard.

2. The petitioners have questioned the legality and validity of the communication dated 21.11.2022, issued on a Reference Application filed under Section 30 of the Land Acquisition Act, 1894 ("Act", for short) informing that the reference is made in view of the objection raised by the respondent Nos. 2 to 12, claiming interest on the amount of compensation in relation to the acquisition of land field survey No. 22/2 (Old Field No. 34/2 and 31/2), Mouza Arni, Tahsil Arni, District Yavatmal in LAC No. 1/47/1997-98.

3. The limited grievance raised by the petitioners is that the learned Collector has failed to appreciate the provision under Section 30 of the Act which permits such application to be filed at the stage of Award under Section 11. It is argued that in the present matter, the reference under Section 18 came to be decided on 10.04.2019 and after the Award passed by the Reference Court, application under Section 30 of the Act came to be filed on

23.09.2022. It is argued that the Collector ought not to have made a reference to the learned Civil Judge Senior Division, Darwha once the Award was passed. It is submitted that there are several proceedings pending against the parties and in one of such proceeding, the respondents have admitted in cross examination that their father had knowledge about the acquisition which was done in the year 1997-98. It is therefore, argued that despite the knowledge, at the stage of award under Section 11, no application was filed under Section 30 of the Act and further for the first time, in the reference proceeding, the application was moved for intervention, in the year 2018. It is further pointed out that after rejection of the application, no challenge was raised to such order and even after the Award, the respondents waited for three years and did not file the application in question. It is therefore, argued that reference is bad in law.

4. On the other hand, learned AGP Mr. N.R. Patil submits that in one of the proceedings seeking direction against the petitioners not to alienate the property till the decision of revenue authority, on dismissal of the same, appeal is pending. He therefore, support the order passed by respondent No. 1 making the reference under section 30 of the Act.

5. Mr. Ghongade, learned counsel for respondent Nos. 2 to 12 argued that there is no limitation prescribed under the Act for filing an application under Section 30. He argued that the reference under Section 30 is permissible even after the Award and the judgment in the appeal arising out of such Award. For this purpose, he has placed reliance upon the judgment of the Allahabad High Court in the case of ***Prashant and Others Vs. State of U.P. and Others***, reported in ***2012 SCC OnLine Allahabad 6340***. Similarly, learned AGP has placed reliance upon the judgment of the Hon'ble Supreme Court of India in the case of ***Dr. G.H. Grant (In all the Appeals) Vs.***

The State of Bihar (In All the Appeals) reported in ***AIR 1966 SC 237***.

6. Having considered the rival submissions and gone through the record, it is evident that in the application under Section 30, respondent Nos. 2 to 12 have not given date of their knowledge about acquisition of the land in question. Admittedly, the land acquisition proceedings started in 1997 and till 2018, no steps were taken by the respondent Nos. 2 to 12 claiming any interest on the compensation. In a proceeding namely Regular Civil Suit No. 16/2009, petitioner No.1 admitted the fact that the father of respondent No. 2 had knowledge about the acquisition and also payment of compensation to the petitioners. Thus, it is evident that from 1997 till 2018 for 21 years, respondent Nos. 2 to 12 remained silent. Even after rejection of their application for intervention, in the reference under Section 18, no challenge was raised to such rejection and that order has attained finality. In the year 2022, for the first time i.e. after 25 years, the respondent Nos. 2 to 12 moved the application under Section 30.

7. Thus, in the above referred backdrop, respondent No.1 ought to have considered the relevant factors for referring the matter, including the date of knowledge and the other relevant factors which appears to have not considered by the Sub Divisional Officer before making reference. In that view of the matter, we are of the opinion that the matter needs to be remanded back for reconsideration after hearing both the parties.

8. The Hon'ble Supreme Court of India in the case of ***Laxman Bhaskar Pathara and Others Vs. State of Maharashtra and Others*** reported in ***1995 Supp(2) SCC 748*** has observed thus:

“3. It is now an admitted case that the 4th respondent – M/s R.S. Builders did not receive any notice under Sections 9 and 10 of the Act, nor made any claim

before the Collector except writing a letter on 25.6.1992 to the Collector. Admittedly, the appellants also had no opportunity to contents the claim of the 4th respondent.

4. Section 30 of the Act postulates that :

“30. Disputes as to apportionment – When the amount of compensation has been settled under Section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.”

5. Though controversy regarding the pending litigation between the parties on suit for specific performance of the contract of sale was sought to be addressed before us, we declined to go into that question since it is not, at this stage, desirable for this Court to decide the issue. Suffice it to state that it is for the Collector to come to a decision whether there is any dispute as regards the appointment or entitlement between the appellants and the 4th respondent in respect of the compensation determined by him under section 11. Necessarily there should exist a dispute and that dispute must be before he decides to make a reference under Section 30 raised in the award enquiry in the presence of the parties and must have an opportunity to meet the respective contentions taken by them before him. Since, admittedly, no notice was issued to the 4th respondent nor the 4th respondent put up any claim for the compensation or apportionment thereof, the Collector was not justified to assume any difficulty in paying compensation or apportionment if he finds such a dispute. Equally, the appellants too had no opportunity to resist any such claim or make their stand clear in that behalf. It is also agreed across the bar that the respondent had not put up any objections to the knowledge of the appellants.

6. Having regard to the circumstances and the respective stands taken by the parties, we set aside the award to the extent of making a reference under section 30 of the Act and direct the Collector to give notice to the appellants as well as to the 4th respondent calling upon them to submit their objections in this behalf and consider their objections and then to take appropriate decision according to law. The Collector is directed to dispose of the objections within a period of two months from the date of the receipt of this order.”

9. In view of the above referred law position, we refer back the matter to the respondent No.1 to decide the same after considering the respective cases of the parties and considering the objection for reference.

10. The parties shall appear before the respondent No.1 on 07.10.2025.

11. The respondent No.1 shall take decision after considering the respective cases of the parties within four months thereafter. In the meantime, reference which is pending in the Civil Court is stayed and in case, respondent No.1 reaches to the conclusion that the reference shall be made, the stage at which the reference is pending, the same shall proceed from the same stage.

(RAJNISH R. VYAS, J)

(ANIL S. KILOR, J)