**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**FIRST APPEAL NO.250 OF 2021**

Shantabai Nimba Mahajan,
Age : Major, Occ. Agriculture,
r/o. Kolegaon, Tq. Bhadgaon,
Dist.Jalgaon ..Petitioner

Vs.

1. The Special Land Acquisition Officer – 2,
Upper Tapi Project Hatnoor – 2, Jalgaon,
At and Post Jalgaon,
Tq. and Dist. Jalgaon

2. The Executive Engineer,
M.S.E.B. Ltd., Jalgaon,
MIDC, Ajantha Road,
Jalgaon ..Respondents

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Mr.M.M.Bhokarikar, Advocate for appellant
Mr.R.K.Ingole, AGP for respondent no.1
Mr.Avishkar Shelhe, Advocate for respondent no.2

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**CORAM : AJIT B. KADETHANKAR, J.**
**DATE : OCTOBER 08, 2026**

**PER COURT :-**

This is the third round of litigation of the appellant solely at his behest. The appellant's land comprised in Gut No.169 of village Kolgaon, Taluka Bhadgaon, Dist. Jalgaon was acquired by the respondent authorities for the purpose of construction of 31/11 K.V.

Sub-Station. The Special Land Acquisition Officer granted certain award. Feeling aggrieved thereby the appellant filed L.A.R. No.460 of 2006 in the Court of learned 2nd Joint Civil Judge Senior Division, Jalgaon. Despite having opportunities to lead evidence on numerous occasions, the appellant/claimant failed to adduce evidence in support of the Reference. Resultantly, the Reference Court was left with no choice but to dismiss the Reference. Accordingly, the reference was rejected vide judgment and order dated 06.12.2017. Feeling aggrieved thereby, the appellant filed Fist Appeal No.1909 of 2018 in this Court.

2. After hearing the parties and consciously observing that the Reference was dismissed solely on account of lethargy of the claimant to adduce evidence, this court, in fact, showed reluctance to interfere in the matter, however, considering that the claimant was a farmer and he should not suffer adverse consequences of lethargy of his advocate to work out the matter, this court vide order dated 06.03.2019 had remanded back the matter to the Reference Court. This Court specifically left the decision to the domain of the Reference Court as to the interest on the compensation, if escalated. Consequent to the order passed by this Court on 06.03.2019. the proceedings were restored before the Reference Court.

3. Again, the appellant/claimant failed to adduce the evidence and ultimately the Reference Court forfeited the right of the claimant to adduce the evidence. The appellant carried the said order in Writ Petition No.1069 of 2020 before this Court. During pendency of the said petition, the Reference came to be decided by the Reference Court on its own merit instead of dismissing it for want of prosecution. Mr.Bhokarikar, learned advocate submits that when these facts were brought to the notice of this court, the Writ Petition No.1069 of 2020 came to be disposed of leaving the petitioner/present appellant to agitate his grievance in the appeal to be filed against the judgment and award passed by the Reference Court. Thus, on the third occasion the appellant/claimant is before this Court.

4. At this juncture also, Mr.Bhokarikar, learned advocate for the appellant repeats the earlier request of the appellant/claimant contending that the appellant has good amount of satisfactory evidence with him to satisfy entitlement for higher compensation. He submits that at least one last opportunity be given to the appellant to lead the evidence so that the appellant would get adequate compensation.

5. Mr.Shelke, learned advocate for the respondent no.2 – acquiring body would strenuously object such prayer. He would demonstrate the consistent lethargic conduct of the appellant/claimant in failing to prosecute his own claim meticulously. He further points out that this is nothing but an attempt to earn undue and unlawful enrichment by way of interest on the compensation. He submits that in fact in the second round before the Reference Court, the appellant got good escalation in the compensation and thus there is no need to allow the present appeal.

6. Considered the submissions advanced by learned advocates for both sides. The facts are evident that the appellant/claimant was extremely lethargic and negligent in prosecuting his Reference proceedings. Not once but at least twice he had shown his disinclination to protect his own case of enhancement. True, a person cannot take undue advantage of his own wrong, however, keeping in mind the basic principle behind the Land Acquisition Act that it is a beneficial legislation, I am of the considered view to grant at least one last opportunity to the appellant/claimant to lead evidence and to satisfy the Reference Court for adequate compensation. However, at the same time, the interest of the respondent/acquiring body needs to be protected which can be done by issuing certain directions on the point of interest.

7. In view of the above, I pass following order:-

**O R D E R**

A) The judgment and award dated 16.11.2019 passed by learned 2nd Joint Civil Judge Senior Division, Jalgaon, is quashed and set aside. The proceedings are relegated back to the Reference Court only to the extent of allowing the claimant to produce evidence on record and to prove such evidence.

B) Parties shall appear before the Reference Court on 26.10.2026. On the date of appearance itself the appellant/claimant shall produce on record the list of documents with sale instances/evidence on which he proposes to place reliance for enhancement. No adjournment shall be granted by the Reference Court for this purpose.

C) The Reference Court is requested to conclude the Reference proceedings within a period of six months from the date of this order.

D) If the appellant/claimant fails to appear on 26.10.2026 before the Reference Court as directed above and fails to appear on a

single day to prosecute his claim, the Reference Court shall dismiss the claim. In that event, the further right of the appellant/claimant to seek enhancement or restoration shall stand forfeited.

E) Needless to mention, in case of enhancement the appellant shall not be entitled for any statutory benefit or interest from the date of first forfeiture of his evidence dated 06.12.2017 till 26.10.2026.

F) Record and Proceedings be sent back to the Reference Court immediately.

**[AJIT B. KADETHANKAR, J.]**

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