



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 2097 OF 2026**

POPAT RAJARAM GIRI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

Mr. Yogesh K. Bobade h/f Mr. Atul B. Hawale, Advocate for the
Petitioner.

Ms. R. R. Tandale, AGP for Respondents-State.

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 25th MARCH, 2026.**

P.C.:-

1. The present petition takes exception to order dated 18.01.2013 passed below Exhibit-1 by Civil Judge Senior Division, Osmanabad, whereby Land Acquisition Reference No.1405/2002 filed under Section 18 of Land Acquisition Act by petitioner has been sent back to office of Land Acquisition Officer, Osmanabad and proceeding is closed.

2. The petitioner was holding land in Gut Nos.228, 163/B1 admeasuring 36R, which has been acquired for construction of Sangameshwar Dokewadi Medium Project Right Canal. The petitioner received meager compensation as per Award passed by Land Acquisition Officer. Therefore, he filed Reference under Section 18 of Land Acquisition Act. It was registered as Land Acquisition Reference No.1405/2002 before Civil Judge Senior Division at Osmanabad. On 18.01.2013, Civil Judge Senior Division, Osmanabad sent back Reference filed by petitioner to

Land Acquisition Officer, Osmanabad observing that claimant and his Advocate are absent and failed to take effective steps to decide Reference.

3. Mr. Bobade, learned Advocate holding for Mr. Hawale, learned Advocate appearing for petitioner relying upon judgment of Supreme Court in case of *Ningappa Thotappa Angadi Vs. Special Land Acquisition Officer and Another*¹ submits that petitioner is ready to waive interest from date of impugned order, if his Reference is restored back for reconsideration before Civil Judge Senior Division, Osmanabad.

4. The learned AGP vehemently opposes prayers for restoration.

5. It is trite that, Reference filed under Section 18 of Land Acquisition Act cannot be dismissed for want of prosecution. Even, there is no provision to send back Reference to office of Land Acquisition Officer. In this backdrop, it was incumbent upon Reference Court to decide Reference on the basis of documents and evidence, which are tendered into service and pass appropriate order. The order sending back Reference cannot be countenanced under scheme of Land Acquisition Act. In that view of matter, impugned order deserves to be quashed and set aside and matter needs to be relegated back to Reference Court for decision on merit.

¹ (2020) 19 SCC 599.

6. At this stage, learned AGP submits that impugned order is passed on 18.01.2013, whereas present writ petition is filed on 05.07.2021. There is inordinate delay of about 8 years. On this count, Writ Petition is liable to be dismissed for delay and laches.

7. The submissions advanced by learned AGP cannot be countenanced for reason that substantive right of land loser cannot be defeated on technical ground by taking hyper technical view of self-imposed limitation. In such cases, it is possible to adjust equity by denying interest for the period for which petitioner failed to approach this Court. Similar analogy is applied by Supreme Court in case of *Ningappa Thotappa Angadi* (supra). Hence, following order is passed:

ORDER

- a. Writ Petition is allowed in terms of prayer Clause (B) subject to condition that petitioner files an undertaking to Reference Court that he shall not claim interest or statutory benefits for period from 18.01.2013 till date of filing of an undertaking.
- b. Once petitioner files aforesaid undertaking, Reference Court shall decide Reference within period of six months thereafter.
- c. The petitioner shall not be permitted to seek adjournment, unless Reference Court is satisfied of genuine difficulty.

(S. G. CHAPALGAONKAR)
JUDGE