



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

WRIT PETITION NO.12648 OF 2024

Sindhubai Ratan Ghat
Age – 80 years, Occu: Housewife
R/o. Jakekur Tal. Omerga
Dist. Osmanabad

...Petitioner

Versus

Nirmala Dattu Kamble,
Age : 54 years Occu. Housewife,
R/o : Suraksha Niwas, Opposite to
Sub Divisional Hospital, Omerga,
Tal. Omerga, Dist. Osmanabad

...Respondent

...

Mr. Ajeet B. Kale, Advocate for the petitioner
Mr. Pratap P. Mandlik, Advocate for Respondent/Sole

...

**CORAM : ABASAHEB D. SHINDE, J.
DATED : 20TH FEBRUARY 2026**

FINAL ORDER :-

1. Heard the learned Counsel for the petitioner as well as learned Counsel appearing for the sole Respondent.
2. By this Writ Petition, the petitioner is challenging the order dated 30.08.2024 passed by the learned Civil Judge Senior Division, Omerga below Exhibit-1 in LAR No.413 of 2018 by which the application filed by the petitioner who is original respondent in the said proceeding seeking permission to lead evidence has been turned down.

3. The petitioner who is respondent in the said proceeding since was not diligent in prosecuting the proceedings, the learned Trial Court initially has passed an order of 'No Written Statement'. Later on the said order was set aside by permitting the petitioner to file its written statement. Record depicts that Respondent No.1 lead his evidence, however, the petitioner despite being granted several opportunities did not cross-examine the petitioner and therefore the learned Trial Court by an order dated 09.01.2024 passed 'No Cross' order against the petitioner.

4. It is pertinent to note that even the petitioner did not bother to lead her evidence as a result of which the learned Trial Court passed an order on 16.02.2024 thereby closing the evidence of petitioner and fixing the matter for argument. It seems that the petitioner moved one more application below Exhibit-55 thereby seeking setting aside of 'No Evidence' order and the learned Trial Court by an order dated 02.04.2024 directed the petitioner to lead her evidence.

5. The petitioner thereafter moved an application below Exhibit-60 seeking time to cross-examine the respondent, however, the learned Trial Court by an order dated 30.08.2024 disposed of the said application holding that, the same has rendered infructuous. It further appears that the petitioner moved another application below Exhibit-

61 seeking permission to lead evidence. The learned Trial Court, however, dispose of the said application stating that the same has rendered infructuous.

6. The record further reflects that despite the order dated 02.04.2024 passed by the learned Trial Court granting an opportunity to the petitioner to lead evidence, the petitioner failed to do so. Consequently, by the impugned order dated 30.08.2024 passed below Exhibit-1, the learned Trial Court, on account of the petitioner's failure to lead further evidence, closed her evidence and posted the matter for final arguments. It is this order which is impugned in this writ petition.

7. Learned Counsel for the petitioner submits that the petitioner could not lead her evidence as she was not aware of the procedure. He would further submit that the petitioner being old lady as also a poor agriculturist could not keep track on the proceedings and therefore she could not keep herself present for leading evidence. He, therefore, urged that considering the nature of proceedings that the same is in respect of payment of compensation towards acquired land by showing leniency the petitioner may be permitted to lead her evidence.

8. Per contra, learned Counsel for the Respondent submits that

the petitioner is adopting dilatory tactics of prolonging the proceedings of LAR No.413/2018 by initially deliberately not cross-examining the respondent and thereafter by not leading evidence. He would further submit that the petitioner right from beginning was not diligent in prosecuting the proceedings of said LAR and therefore the learned Trial Court has rightly rejected the application filed by the petitioner seeking permission to lead her evidence. He would submit that the Trial Court already passed an order of 'No Cross' on 09.01.2024 and merely because of the petitioner having filed the applications below Exhibits-60 and 61 which have been disposed of as infructuous in the teeth of order dated 09.01.2024 the petitioner cannot be permitted to cross-examine the respondent. He therefore urged that the Writ Petition deserves to be dismissed.

9. Having considered the rival submissions advanced by the learned Counsel for the Petitioner as well as learned Counsel for the Respondent, I find that the petitioner's right to cross-examine the Respondent has already been forfeited under the order dated 09.01.2024 and therefore merely because subsequent applications seeking time to cross-examine respondent has been disposed of as infructuous does not mean that the petitioner can be permitted to cross-examine the Respondent. I, however, find that the impugned

order dated 30.08.2024 passed below Exhibit-1 thereby closing the evidence of petitioner would certainly cause prejudice to the petitioner as the petitioner is entitled for sufficient opportunity to contest the proceedings of LAR No.413 of 2018. Unless petitioner lead the evidence she would not be in a position to putforth her case. I, therefore, find it expedient in the interest of justice to grant one more opportunity to the petitioner to lead her evidence. Of course, considering the conduct of the petitioner the permission to permit the petitioner to lead evidence will be subject to payment of cost. I am therefore inclined to allow the Writ Petition by setting aside the impugned order. Hence the following order :-

:: O R D E R ::

- i. The Writ Petition stands allowed.
- ii. The impugned order order dated 30.08.2024 passed by the learned Jt. Civil Judge Senior Division, Omerga below Exhibit-1 in LAR No.413 of 2018 thereby forfeiting the right of the petitioner to lead evidence is hereby quashed and set aside subject to petitioner depositing cost of Rs.5,000/- before the learned Trial Court within a period of two weeks from today.
- iii. Upon deposit of the cost within stipulated period, the

Respondent herein would be entitled to withdraw the said cost. Failure to deposit the cost would amount to recalling of this order.

iv. In peculiar facts and circumstances and considering the fact that the proceedings of LAR No.413 of 2018 is pending since last eight years, the petitioner is directed to appear before the learned Trial Court on 06.03.2026 at 11.00 a.m. The petitioner shall lead her evidence on the next date of her appearance before the Trial Court and shall not seek any unnecessary adjournment.

v. The learned Civil Judge Senior Division, Omerga is requested to dispose of the proceedings of LAR No.413 of 2018 within a period of three (3) months from today.

vi. The Writ Petition thus stands disposed off in above terms.

[ABASAHEB D. SHINDE, J.]