



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

WRIT PETITION NO.5116 OF 2025

**VIDYA PRABHAKAR KULKARNI AND OTHERS
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER NO.1 AND
OTHERS**

...
Mr. M. M. Bhokrikar, Advocate for Petitioners.
Mr. S. D. Ghayal, AGP for Respondents-State.
Mr. A. D. Pawar, Advocate for Acquiring Body.

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 01st APRIL, 2026.**

ORDER:-

1. The present Writ Petition takes exception to judgment and award dated 05.01.2007 passed by Civil Judge Senior Division, Jalgaon in Land Acquisition Reference No.76/1999, whereby Reference has been dismissed for want of prosecution.
2. The petitioners were owners of agriculture land from Gut No.835/1, which is acquired for rehabilitation of village Anturli, Taluka Muktainagar. The Notification under Section 4 of Land Acquisition Act, 1894 (for short 'Act of 1894') was issued on 21.07.1995 and final Award came to be passed on 15.12.1997. The petitioners were served with notice under Section 12(2) of Act of 1894 on 01.04.1998. The petitioners accepted compensation amount under protest and filed Reference under Section 18 of Act

of 1894 for enhanced compensation. On reference, Civil Judge Senior Division at Jalgaon it was registered as Land Acquisition Reference No.76/1999.

3. It appears that, when Reference was posted for hearing after framing of issues, Reference Court observed that petitioner failed to lead her evidence or bring any other material to demonstrate that, as on date of Notification under Section 4 of Act of 1894, valuation of acquired land was higher than that determined by Land Acquisition Officer. Eventually, claim has been dismissed for want of appearance of applicant or leading evidence in support of claim.

4. Mr. Bhokrikar, learned Advocate appearing for petitioners submits that few other Land Acquisition References arising out of same acquisition have been decided on merit and enhanced compensation has been awarded to land owners, who lost land under compulsory acquisition for rehabilitation of village Anturli.

5. It is trite that, dismissal of Reference without considering merit cannot be given status of Award or would not constitute decree within meaning of Section 26 of Act of 1894. It is also well settled that, Land Acquisition Reference cannot be dismissed for want of prosecution, it always requires decision on merit. The

Hon'ble Supreme Court of India in case of ***Khazan Singh (dead)***
by L.Rs Vs. Union of India¹, observed as under:

“ The reference made by a Collector under Section 18 of the Land Acquisition Act, 1894 cannot be dismissed for default. The provisions of Sections 18, 20, 26 make it clear that Civil Court has to pass an award in answer to the reference made by the Collector under Section 18 of the Act. If any party to whom notice has been served by the Civil Court did not participate in the inquiry it would only be at risk because an award would be passed perhaps to the detriment of the concerned party. But non-participation of any party would not confer jurisdiction on the Civil Court to dismiss the reference for default”.

6. In light of aforesaid exposition of law, this Court finds that petitioners needs to be given one opportunity by relegating Reference for reconsideration in accordance with law.

7. Needless to state here that, petitioners shall not be entitled for interest from date of dismissal i.e. from 05.01.2007 till date of this order, as petitioners challenged said order after inordinate delay of about 18 years for which respondents cannot be penalized with statutory interest.

8. In result, following order is passed:

ORDER

a. Writ Petition is allowed in terms of prayer Clauses (b) and (c).

b. The petitioners shall file an undertaking before Reference Court that they shall not claim interest and statutory benefits in

¹ AIR 2002 SC 726.

terms of Land Acquisition Act, 1894 for period from 05.01.2007 till date of this order.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/April-2026