

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13339 OF 2025

Motichand Hukumchand Bundelkhandi

VERSUS

The State Of Maharashtra Through Collector And Others

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Advocate for the Petitioner : Mr. G.L. Gujar

AGP for Respondent/State : Mr. S.P. Joshi

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : MARCH 23, 2026

PER COURT :-

1. Present petition is filed with following prayers :

“B) To issue a Writ of Certiorari or any other appropriate Writ, Order, or Direction, to quash and set aside the Impugned Judgment and Order dated 14.02.2023 passed by the Learned Civil Judge, Senior Division, Chalisgaon, in LAR No. 453 of 2014.

C) To remand the matter back to the Court of the Learned Civil Judge, Senior Division, Chalisgaon, with a specific direction to grant opportunity to the Petitioner to lead his evidence and cross-examine the Opponent's witnesses, if any, and to decide the LAR on its own merits and in accordance with the provisions of the Land Acquisition Act, 1894, and within a fixed time-bound schedule.”

2. The petitioner is an agriculturist. He was owner and possessor of land bearing Gat No.277/2 admeasuring 72 R situated at Village Chalisgaon. His land was subjected to compulsory acquisition for purpose of minor irrigation project (Left Bank Canal). On

15.02.2007, notification under Section 4 of Land Acquisition Act, 1894 was issued and Land Acquisition Officer passed award on 22.02.2010. The petitioner was aggrieved by compensation determined by Land Acquisition Officer, hence, he filed reference under Section 18 of the Act. It was registered as Land Acquisition Reference No.453 of 2014 and placed for trial before Civil Judge Senior Division, Chalisgaon. The petitioner filed his affidavit towards examination-in-chief on 13.03.2020. The Reference Court dismissed reference vide judgment and order dated 14.02.2023 on the ground that petitioner failed to lead evidence in support of his claim for enhanced compensation.

3. Learned advocate appearing for petitioner submits that Reference Court decided the matter without considering merit of contention and primarily dismissed it for want of prosecution.

4. Per contra, learned AGP supports the impugned order contending that since 2013, reference was pending and after filing affidavit in lieu of examination-in-chief, petitioner failed to appear and lead further evidence. Resultantly, reference came to be dismissed.

5. Having considered submissions advanced by learned advocates appearing for respective parties, it can be observed that petitioner is an agriculturist who lost his land towards compulsory acquisition. He raised claim for enhanced compensation under

Section 18 of Land Acquisition Act. It is true that petitioner tendered his evidence affidavit on 13.03.2020 but failed to lead further evidence, however, Reference Court did not discuss documentary evidence on record and dismissed reference for want of prosecution. It is well settled that land acquisition reference cannot be dismissed in default or for want of prosecution. It has to be decided on merit of case. This Court find that Reference Court has not applied mind to pleadings and documents tendered into service on behalf of petitioner and dismissed his reference for default to lead evidence on part of petitioner. The Supreme Court in case of ***Khazan Singh (dead) by L.Rs Vs. Union of India*** reported in ***AIR 2002 SC 726*** 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 exposition of law laid down by Supreme Court is based on consistent view that land acquisition reference needs decision on merit. In facts of present case, reference is decided de hors merit of matter. In result, case is made out for interference in impugned order in exercise of writ jurisdiction. Hence, following order is passed:

ORDER

- (i) Writ Petition is allowed in terms of prayer clause (B) and (C).
- (ii) The petitioner shall appear before Reference Court on 20.04.2026 and lead evidence in support of his claim within a period of three months thereafter.
- (iii) The Reference Court shall decide reference petition within a period of six months from the date of this order.

(S.G. CHAPALGAONKAR, J.)