

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4233 OF 2026

Shashikala Vasant Birajdar

VERSUS

The State Of Maharashtra Through District Collector Latur And Ors

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Advocate for the Petitioner : Mr. D.V. Tele & Ms. Shivani Patil

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

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : APRIL 29, 2026

PER COURT :-

1. The present Writ Petition takes exception to judgment and award dated 28.03.2024 passed by learned Civil Judge, Senior Division, Latur in LAR No. 96/2018.

2. The land of Petitioner from Gut No.164 situated within jurisdiction of Municipal limits of Latur was acquired for construction of new road. The Special Land Acquisition Officer passed award and granted compensation at the rate of Rs.252/- per sq. meters. The Petitioner filed reference under Section 18 of Land Acquisition Act seeking enhancement of compensation and claimed compensation at the rate of Rs.500/- per sq. feet. The reference was forwarded to Court on 22.01.2018. The issues were framed on 13.09.2023, however, claimant failed to lead evidence or argue matter. Finally, Reference Court rejected reference by observing that claimant failed to prove his case by leading evidence.

3. Mr. Tele, learned advocate appearing for Petitioner, submits that reference is practically dismissed for want of prosecution as Petitioner failed to lead evidence. The Reference Court is required to decide reference as per evidence and pleadings before him. In present case, there is no consideration of pleading and material which is already on record. He would further submit that Petitioner wish to lead evidence if opportunity is given to him. At this stage, reference can be given to judgment of 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”.

4. Considering submissions advanced and fact that Petitioner has lost his land on account of compulsory acquisition, it would be in interest of justice to grant one more opportunity to Petitioner to lead evidence.

5. As rightly contended by Mr. Tele although reference is rejected for want of evidence, practically there is dismissal for want of prosecution. In that view of matter, following order is passed:

ORDER

- (a) Writ Petition is partly allowed.
- (b) The impugned judgment and award dated 28.03.2024 passed by learned Civil Judge, Senior Division, Latur in LAR No. 96/2018 is quashed and set aside. The matter is relegated back to Reference Court for decision on merit.
- (c) The Petitioner shall appear before Reference Court on 04.05.2026 and lead his evidence, if any, in support of claim. The Petitioner shall not seek unnecessary adjournments.
- (d) The Reference Court shall endeavour to decide reference within a period of six months from today.
- (e) Needless to state here that Petitioner shall not be entitled for interest or statutory benefit for the period from 28.03.2024 till date of this order.

(S.G. CHAPALGAONKAR, J.)