



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2161 OF 2026

REHANA JAN MOHAMMAD BAILIM AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THR. COLLECTOR, YAVATMAL AND
OTHERS

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.A. Zade, Advocate for Petitioners.
Ms. PT. Joshi, AGP for Respondent Nos.1 & 3-State.
Ms. Bhabhulkar h/f Mr. M.A. Kadu, Advocate for Respondent No.2.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 18th APRIL 2026

PER COURT :-

1. Learned Advocate for the petitioners seeks leave to correct the name of the petitioners.
2. Leave granted. Necessary amendment be carried out forthwith.
3. Heard learned Advocate for the petitioners and learned Advocate for respondent No.2 as well as learned AGP respondent Nos.1 and 3-State.
4. The petitioners, who are the legal heirs of original claimant, have challenged the judgment and order dated 15.12.2016, passed by 2nd Joint Civil Judge Senior Division, Darwha, Dist. Yavatmal, in L.A.C. No.414 of 2004 (Old L.A.C. No.71 of 1994), dismissing the petitioner's reference petition under Section 18 of the Land Acquisition Act, on account of failure to lead evidence.

5. Learned Advocate for the petitioners submitted that the reference Court has passed the impugned order by observing that despite sufficient opportunity, the petitioner had failed to lead evidence and resultantly, the issues raised in the reference petition could not be answered. He pointed out that the reference case is dismissed for want of prosecution, which is not a decision on merits.

6. Learned Advocate for the petitioners has placed reliance on judgment of the Co-ordinate Bench of this Court in ***Writ Petition No.13332/2022, Decided on 02.02.2023 (Chandaba w/o Gangaram Pauyed Vs. State of Maharashtra, Thr. Collector, Nanded and Ors.)*** and in ***Writ Petition No.8589/2022 decided on 04.10.2023 (Wasudeo s/o Barku Lende Vs. The State of Maharashtra and Ors.)***. In view of the position of law laid down in these judgments which are decided by considering the legal position as laid down by the Division Bench in the matter of ***Diwakar Prabhakar Chopade Vs. Sub-Divisional Officer, Aurangabad and Ors., reported in 2019 SCC OnLine Bom 2930***, he submitted that the petitioners are entitled for grant of an opportunity to lead the evidence by remanding the matter. He also invited my attention to the directions issued by this Court while deciding those cases with respect to waiver of the interest for the period from dismissal of the reference case till final disposal of the reference case.

7. Learned Advocate for the respondent although did not dispute the legal position as laid down in the judgments referred above, however, opposed the request for waiver of interest for the aforesaid period and she submitted that considering the conduct of the petitioner in failing to lead evidence, the claimants should not be granted any interest for the period from the date of framing issues.

8. While considering the controversy involved in the instant case, it is clear that the issues raised are covered by the said judgments. Having regard to the position of law as laid down in the above referred judgments, it becomes clear that the petitioners are entitled for grant of an opportunity to lead evidence. In view of the controversy involved, there is no reason to take a different view and hence, by considering the reasons recorded by the Coordinate Bench of this Court in **Chandaba Pauyed (Supra)**, following order is passed.

ORDER

- I) The Writ Petition is allowed.
- II) The order dated 15.12.2016, passed by 2nd Joint Civil Judge Senior Division, Darwha, Dist. Yavatmal, in L.A.C. No.414 of 2004 (Old L.A.C. No.71 of 1994), is quashed and set aside. The land reference Case No.414 of 2004 (Old L.A.C. No.71 of 1994) is restored to its original file.
- III) The Reference Court shall permit the parties to lead oral as well as documentary evidence in support of their contentions.
- IV) The petitioners/claimants are directed to appear before the Reference Court on 04th May 2026.
- V) The Reference Court is directed to dispose of the land acquisition reference case expeditiously and preferably within a period of six months from today.

VI) It is made clear that in case any enhanced amount of compensation is awarded, then the petitioners shall not be entitled for interest, from the date of dismissal of the land reference case in default i.e. from 15.12.2016, till the final disposal of LAR by the Reference Court.

VII) The writ petition is accordingly disposed of. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

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