

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5387 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Sakru S/o. Baba Rathod and others

.. **Respondents**

WITH
WRIT PETITION NO. 5388 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Sundarabai W/o. Dagdu Jogdand
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5390 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Shaligram S/o. Shripati Mukade
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5391 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Bhima S/o. Vyankati Ingole
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5392 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Dharmabai W/o. Shankar Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5393 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Goru S/o. Nanu Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5394 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Phulsingh S/o. Bhika Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5395 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Parasram S/o. Yadoji Patankar
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5396 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Bhagwan S/o. Mahadu Ingole
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5397 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Rama S/o. Dhansing Pawar
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5398 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Sawai S/o. Bhika Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5399 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Laxmibai W/o. Rama Gaikwad
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5400 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Rajulbi W/o. Goma Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5401 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Baba S/o. Khanduji Karhale
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5402 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Uttam S/o. Hukumchand Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5403 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Mohan S/o. Kisan Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5404 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Kundlik S/o. Sakharam Deokar
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5452 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Ukandi S/o. Sambhaji Thombre
and others

.. **Respondents**

WITH
WRIT PETITION NO. 5453 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Hachubai S/o. Lalu Aadhe
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7463 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Vitthal S/o. Ganpati Deokar
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7464 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Rupala S/o. Sawala Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7465 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Ramji S/o. Sambhaji Markande
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7466 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Bhagwan S/o. Bhiwaji Gaikwad
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7467 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Tukaram S/o. Laxman Mukade
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7468 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Uttam S/o. Kashiram Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7469 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Dema S/o. Udhaji Bhise
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7470 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Radhabai W/o. Kanhuji Kale (died)
Through L.Rs.
Jankubai W/o. Narayan Khokade
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7471 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Sakharam S/o. Kondiba Moghe
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7472 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Motiram S/o. Bhimla Jadhav
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7473 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Motiram S/o. Kondiba Paikrao
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7474 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Punjaji S/o. Laxman Kale
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7475 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Maroti S/o. Laxman Gaikwad
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7476 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Deoba S/o. Gyanu Chilgar
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7554 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Munja S/o. Raoji Halshe
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7555 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Topaji S/o. Raghoji Mukade
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7557 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Digambar S/o. Tukaram Dakhole
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7558 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Khandu S/o. Kondji Karhale (Died)
through L. Rs. Kondabai Khandu Karhale
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7576 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Baba S/o. Sawale Rathod (Died)
Through L. Rs.
Shekorao S/o. Baba Mukade
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7674 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Gopa S/o. Dhansing Pawar
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7675 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Kashiram S/o. Sauda Rathod
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7677 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Sakharam S/o. Raghoji Mukade
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7743 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Parubai Govind Kale (Died)
Through L.R. Khandu Govind Kale
and others

.. **Respondents**

WITH
WRIT PETITION NO. 7747 OF 2015

Godawari Marathwada Irrigation
Development Corporation through
The Executive Engineer,
Upper Penganga Project Division No. 1,
Nanded

.. **Petitioner**

Versus

Shamrao S/o. Tukaram Deokar
and others

.. **Respondents**

Shri Kalpalata B. Bharaswadkar - Patil, Advocate for the Petitioner.
Shri S. M. Ganachari, A. G. P. for Respondents – State & S. L. A. O.

CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.

DATE : 29TH JULY, 2016.

PER COURT :-

1. The acquiring body has challenged the award passed U/Sec. 28-A of the Land Acquisition Act by the S. L. A. O.
2. Mrs. Bharaswadkar Patil, the learned counsel for the Petitioner strenuously contends that, in the proceedings U/Sec. 28-A of the Land Acquisition Act no proper opportunity was given to the Petitioner. The Petitioner had requested for time. There were numerous matters filed, say was filed in some matters, however, in some of the matters say could not be filed, the time was sought, no proper opportunity was given to the Petitioners. The learned counsel submits that, the applications U/Sec. 28-A of the Land Acquisition Act were not filed within prescribed period of limitation.

The land acquisition officer does not have jurisdiction and or power to condone the delay. The aspect of limitation has not at all been considered by the authority. According to the learned counsel, it appears that the proceedings are filed in the year, 2005 on the basis of the award passed by the Reference Court in the year, 1990. The learned counsel submits that, earlier the applications U/Sec. 28-A filed by the present Respondents were rejected on the ground of deficiencies. The writ petition was filed by the Respondents in this court, notice was issued to the present Petitioners in the said writ petition and subsequently the same are allowed. The deficiencies were cured after lot of delay. The Respondents cannot take advantage of their own wrong. The Respondents should not be given statutory benefit because of the delay on their part. According to the learned counsel, opportunity be given to the Petitioner to contest the said applications on merit.

3. We have heard the learned A. G. P. also who submits that, the applications U/Sec. 28-A were filed well within the prescribed period of limitation. They were part of the same award.

4. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. We had called for the record and proceedings of one of the case. We have perused the said record and proceedings. From the said record and proceedings it appears that the present Respondents had filed applications U/Sec. 28-A of the Land Acquisition Act on 23rd / 29th October, 1990, the same was filed on the basis of the award passed by the Reference Court U/Sec. 18 of the Land Acquisition Act in L. A. R. No. 305 of 1984 decided vide judgment dated 29.07.1990. The application U/Sec. 28-A of the Land Acquisition Act is required to be filed within 3 months of the award passed by the Reference Court U/Sec. 18 of the Land

Acquisition Act. In view of that the applications U/Sec. 28-A were filed within the prescribed period of limitation. The said aspect has been considered by the authority.

6. It is not the case of the present Petitioner that the acquisition of the land of the Respondents is not pursuant to the same award or for the same purpose as that of the applicant in L. A. R. No. 305 of 1984.

7. The acquisition of the land of the present Respondents is pursuant to the same award as that of the applicant in L. A. R. No. 305 of 1984. The Respondents were entitled to take the benefit of Section 28-A of the Land Acquisition Act. It is also not disputed that these Respondents had not filed Reference U/Sec. 18 of the Land Acquisition Act. The S. L. A. O. while deciding the applications U/Sec. 28-A of the Land Acquisition Act had considered the said aspect and has awarded the same compensation as was awarded by the Reference Court in a Reference filed U/Sec. 18 of the Land Acquisition Act.

8. It is not the case that no opportunity was given to the Petitioner herein. The Petitioner was issued notice and they had appeared in the said proceedings U/Sec. 28-A of the Land Acquisition Act even time was given to the present Petitioner. On perusing the record and the judgment of S. L. A. O. it is manifest that no illegality has been committed by S. L. A. O. while passing impugned judgment.

9. There is another facet to the present case also. The award U/Sec. 28-A of the Land Acquisition Act has been passed in December, 2011 and the present Petitions are filed in December, 2014 i.e. after lapse of 3 years. For a period of 3 years the said award passed U/Sec. 28-A of the Land Acquisition Act was never

assailed by the present Petitioner. It is also submitted that the Petitioners have not yet paid the amount under the award passed by the Special Land Acquisition Officer U/Sec. 28-A of the Land Acquisition Act. Almost 5 years have lapsed since the date of award being passed by the Special Land Acquisition Officer U/Sec. 28-A of the Land Acquisition Act. The Respondents are not getting the fruits of the said award. The enhanced amount of compensation is also only Rs. 3000 to 6000 in each matter, however, as the amounts are not being paid the interest is mounting every day at the rate of Rs. 15% per annum.

10. Considering the fact that the S. L. A. O. has considered all the relevant aspects no case for interference is made out. The Writ Petitions as such are dismissed. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]

sam/July.16