



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 CIRCUIT BENCH AT KOLHAPUR
 CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12769 OF 2022

Tukaram Janaba Patil,]
 Age 96 years, Occ – Agricultural,]
 R/O – Kitwad, Tal – Chandgad,]
 Dist – Kolhapur.] **...Petitioner.**

Versus

- | | | |
|--|---|-------------------------------|
| 1) The Collector, |] | |
| Collector Officer, |] | |
| Kolhapur. |] | |
| 2) The Special Land Acquisition Officer, |] | |
| (SDO), Gadhinglaj, Tal : Gadhinglaj, |] | |
| Dist – Kolhapur. |] | |
| 3) The Executive Engineer, |] | |
| Small Irrigation Department, Kolhapur. |] | <u>...Respondents.</u> |

Mr. Swaroop Karade, amicus curiae.
Mrs. S. N. Deshmukh, AGP for the Respondent-State.

Coram : M. S. Karnik &
 Ajit B. Kadethankar, JJ.

Date : December 23, 2025.

Oral Judgment [Per Ajit B. Kadethankar, J]:

1. **Subject Matter :** feeling aggrieved by the order dated 14th February 2019 passed by the Sub Divisional Officer, Gadhinglaj division, Gadhinglaj, Dist. Kolhapur in Case No.LA/28A/SR/30/10 (New No. LAR/Sect.28-A/SR/15/8), the Petitioner has preferred this writ petition.

An application under Section 28A of Land Acquisition Act, 1894 [hereinafter referred as “**the Act**” for the sake of convenience],

filed by the Petitioner, has been turned down by the Respondent No.2 holding that the same was not supported with certified copies. Hence, the Petitioner is before this Court. Considering the nature of litigation, we deem it appropriate to dispose of the writ petition finally by consent of parties.

2. **Rule.** Rule made returnable forthwith and by consent taken up for final disposal.

3. **Subject-matter Land :**

Description	Area
Gut no.1274, Village Kalkundri, Tk. Chandgad, Dist. Kolhapur	1 Hector 29 R
Gut no.1277, Village Kalkundri, Tk. Chandgad, Dist. Kolhapur	1 Hector 78 R

These lands are owned by the Petitioner and are the subject-matter lands in the Writ Petition.

4. **Petitioner's case :**

4.1. The subject-matter land was acquired by the Respondent No.2 for the purpose of Minor Irrigation tank project Kitwad. An award dated 31st March 1999 was passed granting compensation of Rs.77,700/- against the acquisition.

4.2. A landowner having land adjacent to the subject-matter lands, whose land was acquired in the same land acquisition proceedings and who was granted compensation vide the same Award dated 31st March 1999, preferred a Land Acquisition Reference No. 234 of 1999 before

the learned District Judge, Gadhinglaj. Upon hearing parties, the learned Reference Court vide its Judgment and Award dated 8th August 2008 answered the Land Acquisition Reference No.234 of 1999, and enhanced the compensation in the case.

4.3. The Petitioner too took recourse to Section 28A of the Act and filed such application on 1st November 2008. It is an undisputed fact that claimant could not file certified copy of the Judgment and Award dated 8th August 2008 passed by the learned Reference Court in Land Acquisition Reference No. 234 of 1999. However, the claimant had filed true copy of Judgment and Award dated 8th August 2008 citing which the application under Section 28A of the Act was submitted.

4.4. Petitioner submits that on 14th February 2019, Respondent No.2 passed the impugned order whereby application filed by the Petitioner under Section 28A of the Act came to be rejected. Petitioner's grievance is that application under Section 28A of the Act was turned down merely by observing that Applicant did not file certified copy of the Judgment and Award dated 8th August 2008 passed in LAR No. 234 of 1999.

Petitioner would submit that application under Section 28A of Act ought to have been decided by Respondent No.2 on its own merits, and that on a technical ground it ought not to have been rejected.

5. Respondents' case:

5.1 Mrs. S. N. Deshmukh, learned Assistant Government Pleader would support the impugned order dated 14th February 2019. She would further submit that Respondent No.2 was justified in expecting certified copy of Judgment and Award dated 8th August 2008 to be annexed to the application under Section 28A of Act. Learned Assistant Government Pleader would further submit that no illegality has been committed by Respondent No.2 in turning down the application filed by the Petitioner under Section 28A of the Act for want of certified copy of cited Judgment and Award dated 8th August 2008.

6. Consideration and Analysis :

6.1. Considering the nature of litigation, right of Claimant / Petitioner for enhancement of compensation, and the reasoning applied by Respondent No.2 in rejecting the application under Section 28A of the Act, we heard the parties for final disposal of the Writ Petition.

6.2. It is revealed from the record that the Application under Section 28-A of the Act was filed well within time i.e. within 3 months from 8th August 2008. It was filed on 1st November 2008. However, the Petitioner instead of submitting certified copy of the Judgment and Award dated 8th August 2008 passed in LAR No. 234 of 1999, annexed

its true copy.

We find that while rejecting the application under Section 28A of the Act, Respondent No.2 has recorded the reasoning that certified copy of Judgment and Award relied upon by the Petitioner was not annexed to the application under Section 28A of the Act.

6.3. The Respondent No.2 has recorded that as the first page of the copy of Judgment and Award dated 8th August 2008 in Land Acquisition Reference No. 234 of 1999 was not on record, the authority was unable to ascertain the time that was consumed in obtaining the copy. This observation is in respect of limitation to be counted for the purpose of filing the 28A Application.

6.4. It is pertinent to note that Judgment and Award in Land Acquisition Reference no. 234 of 1999 was passed on 8th August 2008. The Petitioner lodged his application under Section 28A of the Act on 1st November 2008, meaning thereby it was within time even without calculating the days required to obtain certified copy of the Judgment and Award. What is to be seen, is whether the application was within time or not. In the case in hand, we find that the application under Section 28A of the Act was well within time.

6.5 The next objection is as regards the failure of Petitioner to submit certified copy of the Judgment and Award dated 8th August 2008 passed by learned District Judge-1, Gadhinglaj in Land Acquisition

Reference no. 234 of 1999.

6.6 We place our hands on this Court's observations in Writ Petition No. 1315 of 2025 which read as follows: -

“6.3 *It is not the case that application was filed beyond the limitation period. Turning down such application only for want of certified copy, which was in fact also filed during the pendency of proceedings, is too technical approach of the Respondent No. 2.*

6.4. *We may profitably refer to certain observations rendered by the Hon'ble Supreme Court in the case of **Banwari v. Haryana State Industrial and Infrastructure Development Limited [AIR 2025 SC 165]** which reads as follows :*

*“24. As already discussed hereinabove, the provisions of Section 28-A(1) of the 1894 Act have been elaborately considered by a three Judges Bench of this Court in the case of **Pradeep Kumari and Others** (supra). In the said case, it has been held that the Statement of Objects and Reasons of Section 28-A would reveal that the object underlying the enactment of the said provision is to remove inequality in the payment of compensation for same or similar quality of land. It has been held that the said provision is for giving benefit to inarticulate and poor people not being able to take advantage of the right of reference to the civil court Under Section 18 of the Act. It has been held that this is sought to be achieved by providing an opportunity to all aggrieved parties whose land is covered by the same notification to seek redetermination once any of them has obtained orders for payment of higher compensation from the reference court Under Section 18 of the Act. The same benefit would be available to the other landholders Under Section 28-A. It has been held that Section 28-A being a beneficent legislation enacted in order to give relief to the inarticulate and poor people, the principle of interpretation which would be required to be adopted is the one which advances the policy of the legislation to extend the benefit rather than a construction which has the effect of curtailing the benefit conferred by it.”*

6.7 We can not overlook the fact that Petitioner is a farmer. He has lost his sole source of livelihood under the compulsory acquisition undertaken by the Respondent authorities. Similarly affected farmers

have received enhancement in compensation in the same set of facts. Procedure of placing certified copies of the Judgment and Award under challenge or relied upon by a party is necessarily for the purpose of computing limitation. The object is to give an opportunity to a party to agitate his/her grievance, dissatisfaction and objection to the findings recorded by the Court/ Authority while passing Judgment or Award or order as the case may be. Object of an appeal, reference is to award an opportunity to an aggrieved party to establish the deficiency, shortfall, under-consideration of findings on facts or law in a Judgment, order, award as the case may be.

6.8 We are of the firm opinion that procedure must not frustrate the object. Procedure is always to facilitate adjudication of the Object. The object has to be adjudicated on its own merit, but must not be frustrated on hyper technical ground.

6.9 In the cases of farmers like the present Petitioner, in fact it is for the State Machinery to alert and inform the landlosers @ sufferers of the compulsory land acquisition, about their right to seek enhancement in the compensation, if such party so desires or feels affected due to inadequate compensation. These parties loose their sole source of earning for some public purpose that the Government authorities undertake. The State machinery including the Land Acquisition Agencies must not treat these litigation and grievances of

such parties as adversary litigation.

6.10. Enhancement in compensation for land acquisition is a statutory right. The State Government is expected to be a model instrument and agency for adequately compensating the sufferers of compulsory land acquisition. Putting blame on the farmer who is already in trauma of losing his sole livelihood and disappointed due to inadequate compensation, is not at all justifiable. It is but obvious that such strata of society is least aware of the legal procedure and may not be adequately updated about their right to seek enhancement and the procedure for that purpose. Hence, the Authorities are expected to be liberal while applying the procedure to the claims and enhancement matters.

6.11 In view of this, in exercise of the powers vested in this Court under Article 226 of the Constitution of India, we pass following order :

- [i] The order dated 14th February 2019 passed by the Sub Divisional Officer, Gadhinglaj Division, Gadhinglaj, Dist. Kolhapur in Case No. LA/28A/SR/30/10 (New No. LAR/Sect.28-A/SR/15/8) rejecting Petitioner's application under Section 28A of the Act for want of certified copy and also holding barred by limitation, is hereby quashed and set aside.

- [ii] Matter is remitted back to the Respondent No.2, to decide the application preferred by Petitioner under Section 28A of the Act, on 'merits' necessarily in the light of findings in the Judgment and Award dated 8th August 2008 passed by the learned District Judge-1, Gadhinglaj in Land Acquisition Reference No.234 of 1999. The application shall not be rejected on limitation or for want of certified copy.
- [iii] Respondent No.2 shall decide the application under Section 28A of the Act within a period of sixteen weeks from the date of receipt of a copy of this order.
- [iv] The Petitioner is at liberty to adduce such evidence / document which would support his claim.

7. Writ Petition stands allowed. Rule is made absolute in above terms.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]