



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

WRIT PETITION NO. 1315 OF 2025

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| 1) Sunanda Shaliwan Patil, |] | |
| Aged 70 years, Indian Inhabitant, |] | |
| Occupation Agriculturist, |] | |
| residing at Village Sangawade, |] | |
| Taluka Karveer, District Kolhapur. |] | |
| 2) Shubhangi Dhipin Karav, |] | |
| Aged about 48 years, |] | |
| Indian Inbitant, Agriculturist by Occupation, |] | |
| residing at Village Sangawade, |] | |
| Taluka Karveer, District Kolhapur. |] | |
| 3) Vijay Shaliwan Patil, |] | |
| Aged 45 years, Indian Inbitant, |] | |
| Agriculturist by Occupation, |] | |
| residing at Village Sangawade, |] | |
| Taluka Karveer, District Kolhapur. |] | |
| 4) Ajit Shaliwan Patil, |] | |
| Aged 43 years, Indian Inbitant, |] | |
| Agriculturist by Occupation, |] | |
| residing at Village Sangawade, |] | |
| Taluka Karveer, District Kolhapur. |] | <u>...Petitioners.</u> |

Versus

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| 1) State of Maharashtra, |] | |
| through Government Pleader, |] | |
| High Court, Bombay. |] | |
| 2) Deputy Collector (Land Acquisition) No. 12, |] | |
| represented through District Collector, |] | |
| Kolhapur, at Swaraj Bhavan, Nagala Park, |] | |
| Kolhapur. |] | |
| 3) Executive Engineer, |] | |
| Dudhganga Canal Division No.1, |] | |
| Warana Bhavan, Tarabai Park, Kolhapur |] | <u>...Respondents.</u> |

Mr. Sunil Kadam (thr. V.C.) for the Petitioner.
Mrs. S. N. Deshmukh, AGP for the Respondent-State.
Mr. D. D. Ranaware for the Respondent No. 3.

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

Date : December 1, 2025.

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

1. **Subject Matter :** feeling aggrieved by the order dated 1st January 2019 passed by the Deputy Collector (Land Acquisition) No.12, Kolhapur in Case No.LA/28A/SR/18/2018, the Petitioners (the legal representatives of deceased Claimant-Shaliwan Raigonda Patil) have 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 original claimant Shaliwan Patil, has been turned down by the Respondent No.2 holding that the same was not supported with certified copies. Hence, the Petitioners i.e. legal representatives of deceased Shaliwan Patil are 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 :** One Shaliwan Raigonda Patil was the owner and possessor of land admeasuring 81-R in Gat No. 685 of Village Sangawade Taluka Karveer District Kolhapur. This land is the subject-matter land 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 Dudhganga Canal Project, and award dated 21st October 1989 was passed granting compensation of Rs.45,716/- against the acquisition.

Being dissatisfied with the said award, deceased Shaliwan Raigonda Patil preferred Writ Petition No. 2119 of 1989 in this Court. Upon hearing parties, this Court by its order dated 20th February 1996 dismissed the said writ petition. Consequent to the dismissal of said writ petition, on 25th April 1997 Respondent No.2 issued notice to the owner/claimant and obtained physical possession of the subject-matter land on 4th May 1997. Subsequently, in the year 2017, the owner/claimant expired leaving behind the present Petitioners as his legal representatives. Neither the deceased Shaliwan Raigonda Patil nor his family members ever filed any application under Section 18 of the Land Acquisition Act, 1894.

4.2. On 20th November 2007, learned Civil Judge, Senior Division, Kolhapur allowed one Land Acquisition Reference No.31 of 2007. The L.A.R. No.31 of 2007 was in respect of the land adjacent to the subject matter land.

Upon hearing parties therein, the Reference Court answered the said reference vide judgment and award dated 30th April 2014 and granted enhancement in compensation in favour of claimants therein.

4.3. Deceased Shaliwan Patil took recourse to Section 28A of the Act and filed such application on 25th July 2014. Pertinently, the claimant did not file certified copy of the judgment and award dated 30th April 2014 passed by the Ld. Reference Court in Land Acquisition Reference No. 31 of 2007.

However, the claimant had filed certified copy of another land reference of the land which was also adjacent to the subject matter land and filed an undertaking of 25th July 2014 that he would file certified copy of the judgment and award dated 30th April 2014 rendered in LAR No. 31 of 2007 within a stipulated period.

4.4. Petitioners submit that Respondent No.2 issued a notice on 30th May 2015 and directed the claimant i.e. deceased Shaliwan Patil to produce certain documents. In response to the said notice, claimant filed an application / pursis dated 10th June 2015 producing the requisitioned documents and also provided certified copy of judgment and award dated 30th April 2014 passed in LAR No.31/2007. Pertinent to note that during that period, claimant Shaliwan Patil was suffering from cancer to which he ultimately succumbed in the year 2017.

4.5. Petitioners submit that on 1st January 2019, the Respondent No.2 – Deputy Collector (Land Acquisition) No.12, Kolhapur passed the impugned order whereby application filed by deceased Shaliwan Patil under Section 28A of the Act came to be rejected.

4.6. Petitioners' grievance is that application under Section 28A of the Act was turned down merely observing that Applicant - Shaliwan Patil did not file certified copy of the judgment and award dated 30th April 2014 passed in LAR No. 31 of 2007. It seems that Respondent No.2 sought opinion of the District Government Pleader, Kolhapur who opined that application under Section 28A of the Act shall not be allowed for the reason that Applicant had neither annexed certified copy of the judgment and award dated 30th April 2014 nor has filed an application for the certified copy within 3 months from 30th April 2014.

Petitioners would submit that application under Sec 28A of Act ought to have been decided by Respondent No.2 on its own merits, and that on 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 1st January 2019. She would further submit that Respondent No.2 was justified in expecting certified copy of judgment and award dated 30th April 2014 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 deceased Shaliwan Patil under Section 28A of the Act for want of certified copy of cited judgment and award dated 30th April 2014.

6. Consideration and Analysis :

6.1. Considering the nature of litigation, right of Claimant / deceased Shaliwan Patil for enhancement of compensation, and the reasoning applied by Respondent No.2 in rejecting the application under Section 28A of the Act, we are of the considered view that application under Section 28A of the Act ought to have been decided by the Respondent No.2 on its own merits.

6.2. May it be that, an application under Section 28A of the Act ought to have been filed within 3 months from the date of judgment and award dated 30th April 2014. However, we find that said application was rightly filed within such limitation period, i.e. on 25th July 2014.

We find that to reject the application under Section 28A of the Act, Respondent No.2 has recorded the reasoning that certified copy of judgment and award dated 30th April 2014 in L.A.R. No.31 of 2007 was not annexed to the application under Section 28A of the Act.

6.3. We also find that the Respondent No. 2 has recorded that certified copy was also filed by the deceased Shaliwan Patil, however at a later point of time. We are of the considered opinion that turning down application under Section 28A of the Act, which in fact was filed well within limitation period, has certainly deprived the Petitioners, of

their legitimate right of seeking compensation. 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.”

6.5. 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 impugned order dated 1st January 2019 passed by the Respondent No.2 in Case No.LA/28A/SR/18/2018 rejecting the said application under Section 28-A of the Act for want of certified copy and also holding barred by limitation, is quashed and set aside.
- [ii] Matter is remitted back to the Respondent No.2 to decide the application under Section 28A of the Act filed by deceased Shaliwan Raigonda Patil, on 'merits' particularly in the light of findings in the judgment and award dated 30th April 2024 passed by the Civil Judge, Senior Division, Kolhapur in Land Acquisition Reference No.31 of 2007.
- [iii] Respondent No.2 shall permit the present Petitioners to be impleaded as legal representatives of deceased Applicant Shaliwan Raigonda Patil.
- [iv] Respondent No.2 shall decide the application under Section 28A of the Act within a period of 16 weeks from the date of receipt of a copy of this order.
- [v] Petitioners are at liberty to adduce such evidence / document which would support their claim.

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

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]