

CR-997-2026

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VINAY SARAF

CIVIL REVISION No. 997 of 2026
CNR No.: MPHC020358332026
SANJAY
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

WITH
CIVIL REVISION No. 991 of 2026
CNR No.: MPHC020358272026
CHUNNILAL
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 992 of 2026
CNR No.: MPHC020358282026
HUKMICHAND
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 993 of 2026
CNR No.: MPHC020358292026
MANJUBAI
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 994 of 2026
CNR No.: MPHC020358302026
GOPAL
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 995 of 2026
CNR No.: MPHC020358312026
BADRILAL
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 996 of 2026
CNR No.: MPHC020358322026
DINESH
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 998 of 2026
CNR No.: MPHC020358342026
HARIRAM
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 999 of 2026
CNR No.: MPHC020358352026
FAKIRCHAND
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1000 of 2026
CNR No.: MPHC020358362026
NARAYAN
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1002 of 2026
CNR No.: MPHC020358742026
LEELABAI
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1004 of 2026
CNR No.: MPHC020358782026
KHUSWANT
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1005 of 2026
CNR No.: MPHC020358792026
ROOPKISHORE
Versus
STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1006 of 2026
CNR No.: MPHC020358802026
RAMBHABAI
Versus
STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1008 of 2026
CNR No.: MPHC020358832026
VYANKAT
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1009 of 2026
CNR No.: MPHC020358852026
KAMLABAI
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1010 of 2026
CNR No.: MPHC020358872026
SHANTILAL
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1011 of 2026
CNR No.: MPHC020358882026
TOLARAM
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1012 of 2026
CNR No.: MPHC020358892026
DINESH
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1013 of 2026
CNR No.: MPHC020358902026
LAKHAN SINGH
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1014 of 2026
CNR No.: MPHC020358922026
MOHAN
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1015 of 2026
CNR No.: MPHC020358942026
VISHNNU
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1016 of 2026
CNR No.: MPHC020359312026
TOLARAM
Versus
SUB DIVISONAL OFFICER REVENUE AND LAND ACQUISITION OFFICER AND OTHERS

CIVIL REVISION No. 1017 of 2026
CNR No.: MPHC020359322026
KAUSHALYABAI
Versus
SUB DIVISONAL OFFICER REVENUE AND LAND ACQUISITION OFFICER AND OTHERS

CIVIL REVISION No. 1018 of 2026
CNR No.: MPHC020359332026
PARMANAND
Versus
SUB DIVISIONAL OFFICER REVENUE AND LAN ACQUISITION OFFICER AND OTHERS

CIVIL REVISION No. 1019 of 2026
CNR No.: MPHC020359342026
SANJUBAI
Versus
SUB DIVISIONAL OFFICER (REVENUE) AND LAND ACQUISITION OFFICER AND OTHERS

CIVIL REVISION No. 1023 of 2026

CNR No.: MPHC020360132026
DHAPUBAI
Versus
SUB DIVISIONAL OFFICER (REVENUE) AND LAND ACQUISITION OFFICER AND OTHERS

CIVIL REVISION No. 1024 of 2026
CNR No.: MPHC020360142026
MANOHAR AND OTHERS
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1026 of 2026
CNR No.: MPHC020360172026
HARIRAM
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1027 of 2026
CNR No.: MPHC020360182026
JAGDISH
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1029 of 2026
CNR No.: MPHC020360712026
MEHARBAN
Versus
SUB DIVIONAL OFFICER REVENUE AND LAND ACQUISITION OFFICER AND OTHERS

CIVIL REVISION No. 1031 of 2026
CNR No.: MPHC020360742026
SURESH
Versus
SUB DIVIONAL OFFICER REVENUE AND LAND ACQUISITION OFFICER AND OTHERS

CIVIL REVISION No. 1032 of 2026
CNR No.: MPHC020360762026
SUNIL AND OTHERS
Versus

SUB DIVIONAL OFFICER REVENUE AND LAND ACQUISITION OFFICER AND OTHERS

CIVIL REVISION No. 1020 of 2026
CNR No.: MPHC020359492026
CHUNNILAL
Versus
SUB DIVISIONAL OFFICER REVENUE AND LAND ACQUISITION OFFICER TEHSIL SARDARPUR DISTRICT DHAR M P AND OTHERS

CIVIL REVISION No. 1025 of 2026
CNR No.: MPHC020360162026
DHAPUBAI
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1030 of 2026
CNR No.: MPHC020360722026
KRISHNABAI
Versus
SUB DIVIONAL OFFICER REVENUE AND LAND ACQUISITION OFFICER AND OTHERS

CIVIL REVISION No. 1007 of 2026
CNR No.: MPHC020358822026
UDDIBAI
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

CIVIL REVISION No. 1003 of 2026
CNR No.: MPHC020358762026
RAMESHWAR
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

Appearance in all cases:

Shri Pranav Mandhanya - Advocate for the petitioner.

Shri Anshul Rajpurohit – Govt. Advocate and Shri Arnik Jain – Panel Lawyer for the respondent Nos. 1 & 2 / State.

Shri Romesh Dave – Deputy Solicitor General alongwith Shri J.B. Mehta – Advocate for the respondent No. 3.

Reserved on	**:**	16-17.09.2026
Delivered on	**:**	05.10.2026

ORDER

Per*: *Justice Vinay Saraf

These Civil Revision Petitions are arising out of the common notification of land acquisition and common questions of law are involved in these revision petitions, thus, with the consent of the parties, the arguments were heard analogously for the purpose of final disposal of these petitions and this order will dispose of all the civil revisions. For the sake of convenience, facts are being taken from **Civil Revision No. 997/2026**.

02. Facts of the case, in nutshell, sufficient to decide these revision petitions are that a notification was issued on 10.01.2018 for acquisition of lands for the purpose of laying down the Indore – Dahod Railway Line at the instance of the Western Railway. The notices were issued to the landowners on 25.09.2018 and objections were called till 26.10.2018. After affording opportunity of hearing the objections, on 04.06.2020, the Land Acquisition Officer passed the award. Thereafter, reference petition was filed by the land loser on 13.06.2025, which was referred by the Collector to the Reference Court for adjudication under the provisions of Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the Act, 2013").

03. The respondent No. 3, after appearance, filed an application under Order VII Rule 11(d) read with Section 151 of Code of Civil Procedure,

1908 (hereinafter referred to as "CPC") for rejection of the reference petition, on the ground that the petition is barred by limitation. The application preferred by respondent No. 3 was allowed by the Reference Court vide impugned order dated 30.06.2026 and the reference petition filed under Section 64 of the Act, 2013 has been rejected as barred by limitation. Hence, this civil revision petition has been preferred.

04. The order passed by the District Court in reference petition has been assailed by the land loser in the instant civil revision petition filed under Section 115 of the Code of Civil Procedure, 1908 stating that the intimation of passing the award was never served to the land loser and the land loser or his representative / Lawyer was not present at the time of making the award, therefore, the land loser was not having any knowledge of the award and when, in the year 2025, the amount of compensation was paid to him, he came to know about the passing of award and thereafter, preferred the reference petition before the Collector, which was duly referred to the District Court and made over to the Reference Court, who committed error in rejecting the reference petition treating as time barred.

05. The revisionist assailed the order passed by the Reference Court on various grounds *inter alia,* the Reference Court was not having any authority to reject the reference case and was under obligation to decide the reference petition on merits only. The Reference Court failed to consider that no intimation of award was ever served to the land loser and in the absence of knowledge, the reference petition could not be filed earlier and thus filed within limitation from the date of knowledge, therefore, the same could not be treated as time barred. Once the reference petition is made by the Collector to the Reference Court, it amounts to implied condonation of delay, if any, and the decision of the Collector being an executive action, the Reference Court had no jurisdiction to decide the issue of limitation and delay allegedly occurred in filing the

reference petition before the Collector. It is also urged on behalf of the petitioner that in Section 64(2) of the Act, 2013, the reference of Section 21 should be read as Section 37 of the Act, 2013.

06. Counsel appearing on behalf of the respondent No. 3 opposed the revision petition on various grounds *inter alia,* the civil revision petition under Section 115 of CPC is not maintainable and the order passed by the Reference Court rejecting the reference petition amounts to an award, therefore, the remedy to the petitioner was available under Section 74 of the Act, 2013 to file an appeal and consequently, the revision petition is liable to be dismissed, as not maintainable. He further raised the issue that as per Section 64(2) of Act, 2013, the reference petition could be filed within six weeks from the date of passing of the award if, at the time of passing the award, the land loser or his representative was present and otherwise, within six weeks from the date of receipt of the notice under Section 21(2) of the Act, 2013 and in any case, not later than six months from the date of award. However, in the case in hand, on 04.06.2020, the award was passed, and the reference petition has been filed on 13.06.2025, after a delay of 1834 days and, therefore, the Reference Court has correctly rejected the reference petition considering as time barred.

07. Mr. Pranav Mandhanya, learned counsel appearing on behalf of the petitioner submits that the Collector has already exercised his jurisdiction to refer the reference petition to the Reference Court, thus, the Reference Court was under obligation to decide the same on merits and could not have been rejected the same by reopening the question of limitation, which was already considered by the Collector at the time of making reference and, thus, the Reference Court has travelled beyond its jurisdiction in rejecting the reference under Order VII Rule 11 of CPC. He further submits that the order of rejection of reference petition cannot be treated as award, as the award necessarily contains the details of land, the

determination of the market value and specifies the amount awarded under Clause 1 of Section 28 and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section together with the grounds of awarding each of the said amount and, therefore, the order passed by the Reference Court in the case in hand cannot be considered as award as per the provisions of Section 69 & 70 of the Act.

08. Mr. Mandhanya further submits that as the impugned order is not an award, therefore, civil revision petition is maintainable. He relied on the order 24.06.2015 passed by Coordinate Bench of this Court in a batch of civil revision petitions in the case of ***Somli W/o Tersingh v/s State of M.P. (Civil Revision No. 42/2015 and other matters)*** wherein it has been decided that civil revision petition is maintainable if, the Reference Court has rejected the reference petition treating as time barred. He further relied on order dated 03.09.2024 in ***Civil Revision No. 741/2019 (Smt. Santosh and others v/s Deputy Chief Engineer (Construction) IInd and others,*** wherein, the Coordinate Bench has held that civil revision petition is maintainable, if the reference petition is rejected as not maintainable. The similar view has been taken by another Coordinate Bench in ***Civil Revision No. 99/2021 (Abhay Kumar Jain v/s the State of Madhya Pradesh and another), decided on 30.06.2022***, wherein the Coordinate Bench has held that the civil revision is maintainable.

09. Mr. Mandhanya further relied on the judgment delivered by Rajasthan High Court in ***Lakshmi Narayan v/s State of Rajasthan*** reported in ***AIR 1966 Rajasthan 118***, wherein the Rajasthan High Court has held that in the statute, it is clearly defined that when an order will amounts to an award and if the reference is rejected as invalid being made on a time barred application, the order will not be treated as award and consequently, no appeal would lie to the High Court and the remedy of civil revision is available to the aggrieved party.

10. Mr. Mandhanya submits that in view of the orders passed by the Coordinate Benches, the issue of maintainability of civil revision has already been decided and consequently, the civil revision petitions preferred by the petitioners are maintainable. He submits that the limitation for filing the reference petition has been provided in Section 64 of the Act, 2013, which is *pari materia* to Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "Act, 1894"). He submits that limitation provided in Section 64 of Act, 2013 will start from the date of award if, the applicant was present or represented before the Collector at the time, when the award was made and in those circumstances, the reference petition should be filed within six weeks, otherwise, the land loser will get limitation of six weeks from the receipt of the notice from the Collector intimating the passing of award.

11. He further submits that in Section 18 of Act, 1894, the notice from the Collector under Section 12(2) was referred, which issued after the passing of the award forwarding the intimation to the land loser, but the legislature inadvertently referred Section 21 in Section 64(2) of the Act, 2013, which should be Section 37 because Section 21 has nothing to do with the passing of award and Section 37 of Act, 2013 is *pari materia* to Section 12 of the old Act of 1894 and, therefore, the correct provision is Section 37 and thus it should be read as Section 37 and from the date of the receipt of the notice under Section 37, the land loser may file the reference petition within six weeks otherwise, within six months from the date of Collector's award.

12. He submits that in the case in hand, notice under Section 37 of Act 2013 was never served upon the land losers. At the time of passing the award on 04.06.2020, no land loser was present or represented, intimation of passing of award never served, the compensation was deposited in year 2025, possession was demanded in the year 2025 and, therefore, in the

absence of the knowledge of passing of award, no cause of action accrued to the land losers to file reference petition and when the land loser gathered the knowledge of passing of award, they immediately filed the reference petition within limitation before the Collector and Collector treating them in limitation referred the reference petitions to the Reference Court for deciding in accordance with the law. Meaning thereby the petitions were filed within limitation and if any delay occurred, the same has been impliedly condoned by the Collector by an executive order of reference and the Reference Court had no occasion to reconsider the question of limitation.

13. Mr. Mandhanya submits that the Supreme Court has already decided the question of limitation in the matter of ***Bhagwan Das and others v/s State of U.P. and others, 2010 (3) SCC 545***, wherein the Supreme Court has held that the limitation will start from the date of knowledge of the passing of an award. He further submits that the Supreme Court in the matter of ***Premji Nathu v/s State of Gujarat and another, 2012 (4) M.P.L.J. 37*** interpreted the expression the date of award used in the proviso as knowledge of award either actually or constructively. He further submits that in the case in hand, the Land Acquisition Officer received the compensation amount from Western Railways on 05.06.2024 and 23.10.2024, after 4 years of passing the award, and thereafter, the payment was made to the land losers and no notice under Section 37 of Act, 2013 was ever issued or served upon the revisionist. Neither the possession has taken over, nor the compensation was paid till 2025 and, therefore, the Collector has not committed any error in forwarding the reference cases to the Reference Court for adjudication.

14. He submits that the petitioner, after obtaining the certified copy of the award, filed the reference petition under Section 64 on 13.06.2025, which was well within limitation. He further submits that in the Act, 1894,

the Collector was not having any authority to condone the delay, however, in the Act, 2013, the Collector is having authority to condone the delay up to one year and, therefore, the decision of the Collector to forward the reference case to the Reference Court amounts to implied condonation of delay, if any.

15. Mr. Mandhanya further submits that constructive knowledge of passing of award can be inferred from receipt of compensation or delivery of possession. But in the case in hand, neither the possession was obtained before year 2025 nor compensation was paid, therefore, it cannot be inferred that the petitioner was having knowledge of passing of the award prior to year 2025. He further submits that mentioning of Section 21 in Section 64(2)(b) of Act, 2013 is a drafting error and Section 21 has no connection with the passing of the award and in Section 21, notice is not required to be issued after passing of the award, therefore, the limitation in filing any reference petition cannot be started from the date of receipt of notice of Section 21. He submits that it should be "Section 37" because in Act, 1894, it was mentioned that the reference case may be filed within six weeks from the date of receipt of notice under Section 12(2), which was an intimation of passing of the award and deposition of the payment. Similar provision is available in Section 37 of Act, 2013. Section 37 of Act, 2013 provides for issuance of notice to the landowner intimating the passing of award and deposition of compensation by the authority, therefore, it should be read as "Section 37(2) " of the new Act, 2013.

16. To support his argument, he relied upon the judgment delivered by the Kerala High Court in the matter of ***Pushpaja M. and others v/s State of Kerala and others, I.L.R. 2019 (1) Kerala 340***, wherein the Kerala High Court, considering the issue of limitation, has held that the words used as "Section 21(2)" in Section 64(2)(b) of Act, 2013 should be read and understood as "Section 37(2)" and the limitation to file the petition for

reference for enhanced compensation can be submitted within six weeks of receipt of notice under Section 37(2). He submits that the Kerala High Court, after discussing the provisions of Act, 1894 and Act, 2013 has finally observed and suggested the Competent Authority of Union Government to take appropriate steps for remedial amendments in Clause (b) of Section 64(2) of Act, 2013 to substitute the words "Section 21" as "Section 37(2)".

17. Learned counsel also relied upon the judgment delivered by the Supreme Court in the matter of ***Shailesh Dhairyawan v/s Mohan Balkrishna Lulla, (2016) 3 SCC 619***, wherein the Supreme Court has held that the *"purposive interpretation"* or *"purposive construction"* is based on the understanding that the court is supposed to attach that meaning to the provisions, which serve the *"purpose"* behind such a provision. He further relied upon the judgment delivered by the Constitutional Bench of Supreme Court in the matter of ***Indore Development Authority v/s Manoharlal and others, 2020 (8) SCC 129*** and submits that the Supreme Court has considered the Act of 2013 as beneficial legislation and, therefore, its provisions must be construed liberally in favour of the land losers. He submits that the Supreme Court has observed that technical bars are not to defeat the substantive rights to just and fair compensation. The preamble and objects of the act reinforce that a hyper-technical rejection on an incorrect computation of limitation would defeat the very purpose of the Legislature.

18. He relied on the order passed by the Coordinate Bench at Jabalpur in the matter of ***Lalbahadur Pandey and others v/s Executive Engineer Purv Naher Sambhag No.2 and others in Misc. Petition No. 4445/2021,*** decided on ***07.01.2026***, wherein the Coordinate Bench has held that the date of Collector's award would mean the date of knowledge of the party affected by the award and also that knowledge of award does not mean a

mere knowledge, but knowledge must mean essential contents of the award and the contents must be known either actually or constructively. He further relied on the judgment delivered by the Supreme Court in the matter of ***Kolkata Municipal Corporation and another v/s Bimal Kumar Shah and others, 2024 INSC 435***, wherein the Supreme Court has recorded the conclusion that principles for the compulsory acquisition should be followed in all the cases.

19. Mr. Mandhanya further relied on the judgment delivered by the Supreme Court in the matter of ***Sukh Dutt Ratra and another v/s State of Himachal Pradesh and others, 2022 INSC 394***, wherein the Supreme Court has held that the right against deprivation of property, unless in accordance with procedure established by law, constitutes to be a constitutional right under Article 300A of the Constitution of India and it is the cardinal principle of rule of law that nobody can be deprived of liberty of property without due process or authorization of law.

20. Learned counsel for the petitioner submits that the impugned order be set aside and the matter be remanded to the Reference Court to decide on the merits, in accordance with the law.

21. Mr. Anshul Rajpurohit, Govt. Advocate and Mr. Arnik Jain, Panel Lawyer appearing on behalf of the respondent Nos. 1 & 2 / State supported the order passed by the Reference Court and submit that the Reference Court, after considering the provisions of law, correctly rejected the reference petition, as the same was preferred after 5 years of the passing of award and which could not be treated within limitation on any ground. They pray for dismissal of the petitions.

22. Mr. Romesh Dave, Deputy Solicitor General and Mr. Jitendra B. Mehta, learned counsel appearing on behalf of the respondent No. 3 advanced two fold arguments, *firstly*, that the civil revision petition is not maintainable against the order of rejection of reference petition by the

Reference Court under Order VII Rule 11 of CPC and the proper remedy is to file an appeal under Section 74 of the Act, 2013 and, *secondly*, that the reference petition was barred by 1834 days and, therefore, the Reference Court has not committed any error in rejecting the reference petition.

23. Mr. Mehta submits that the award was passed on 04.06.2020 and reference petition has been filed on 30.06.2025, therefore, there was a delay of 5 years in filing the reference petition. When respondent No. 3 received the notice of the reference petition from the Reference Court, they raised the question of limitation and earlier there was no occasion for respondent 3 to raise the question of limitation before the Collector. He submits that the Reference Court considered their objections in view of the provisions of Section 64 of the Act, 2013, which provides that the reference petition may be filed within six weeks from the date of Collector's award, if the person making it was present or represented before the Collector at the time, when the award was made or within six weeks of the receipt of notice from the Collector under Section 21 in other cases or within six months from the date of the Collector's award, whichever period shall first expire. He further submits that the Collector has authority to entertain an application for condonation of delay of one year only.

24. Learned counsel heavily relied upon the latest judgment delivered by the Apex Court on 09.02.2026 in the matter of ***Deputy Commissioner and Special Land Acquisition Officer v/s M/s S.V. Global Mill Limited, 2026 SCC Online SC 171***, wherein the Supreme Court has held that the provisions of Section 5 of the Limitation Act cannot be invoked to condone the delay, where a special statute prescribes a maximum outer time limit for filing a reference. The Supreme Court further held that the statute does not provide any right of appeal, if the land owner has failed to seek a reference within the stipulated time period and it also does not supply any

power to the Court to grant an extension in seeking a reference. The Supreme Court further held that the right of a landowner to seek a reference is extinguished under the statute on the expiry of the stipulated time period.

25. Mr. Mehta submits that as per Proviso to Section 64(2) of Act, 2013, even the Collector can condone the delay up to one year only, if he is satisfied that there was sufficient cause for not filing it within the period prescribed in the first Proviso and, therefore, the law has fixed an outer limit for the purpose of condonation of delay and in these circumstances, a delay of more than one year could not have been condoned by the Collector, Mr. Mehta referred the provisions of Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the "Act, 1996") and submits that in Section 34 of the Act, 1996, an outer limit of 30 days has been fixed for condonation of delay occurred in filing the application for setting aside the award and it is a settle position of law that the delay of more than 30 days cannot be condoned by the Court in any case. He submits that even after liberal reading of the provisions of Section 64 of the Act, 2013, it can be gathered that at the most, the reference petition may be filed within 18 months from the date of passing of the award by the Collector and not thereafter, in any case.

26. Mr. Mehta further submits that the Coordinate Bench of this Court in ***Civil Revision No. 412/2019 (Jagdish v/s Land Acquisition Officer, Barwani and another, decided on 27.08.2019)*** has held that a civil revision petition challenging the award of the Reference Court rejecting the application for reference is not maintainable, as the award is appealable. He submits that the Bombay High Court has also taken the similar view in the matters of ***Venkat Baburao Karle v/s State of Maharashtra and others, 2012 AIR CC 2163 (BOM)***, ***Chandu S/o Jagannath Ambekar and another v/s Digamber S/o Kisanrao Kulkarni,***

2004 (4) Mh.L.J. 69 and ***Diwakar Prabhakar Chopade v/s Sub Divisional Officer, 2019 SCC OnLine Bom 2930*** by holding that against the order of rejection of reference petition filed for enhancement of the compensation, no civil revision petition under Section 115 of CPC would lie and the only remedy would be filing of an appeal.

27. Learned counsel appearing on behalf of respondent No. 3 prays for dismissal of the revision petition.

28. Heard arguments advanced by learned counsel for the parties, at length. After considering the arguments advanced by the counsel for the parties and the issues raised by them in their respective arguments, the following legal questions emerge in this case:-

> ***(a)*** *Whether the reference petition can be filed within six months from the date of knowledge of the award, in case no notice or intimation of passing of award has been served upon the land loser?*
>
> ***(b)*** *Whether the Reference Court can reject the reference petition referred by the Collector under Section 64 of the Act, 2013 without deciding on the merits?*
>
> ***(c)*** *Whether a civil revision petition would lie impugning the order of rejection of reference petition by Reference Court under Order VII Rule 11 of CPC?*

Consideration on Question (a):

29. For consideration of this question, it will be profitable to quote the provisions of Section 18 of the Act, 1894 and Section 64 of the Act, 2013 in juxta position:

Section 18 of the Act, 1894	Section 64 of the Act, 2013
18. Reference to Court. - (1) Any person interested who has not accepted the award may, by written application to the Collector,	**64. Reference to Authority**.-(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter

require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested. (2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made- (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award; (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.	be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested: Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority: Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days. (2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made- (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award; (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire: Provided further that the Collector may entertain an application after the expiry

	of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

30. From bare reading of the provisions of Section 18 of Act, 1894 and Section 64 of Act, 2013, it appears that both the provisions are *pari materia* except few changes and the material change is that earlier the Collector was not having any authority to condone the delay and in the new Act, 2013, second proviso has been added, whereby the Collector has been extended the power to condone the delay up to one year, if he is satisfied that there was sufficient cause for not filing it, within the period specified in the first place.

31. In Section 18(2)(b) of Act, 1894, the words "the notice from the Collector under Section 12 sub-section (2)" was mentioned, whereas in Section 64(2)(b) of Act, 2013, it is mentioned as "notice from the Collector under Section 21". The intention of the Legislature is that if a notice is issued to the land loser intimating the information of passing of the award, the limitation would start.

32. For understanding the intention of the Legislature to refer the notice issued by the Collector in these provisions, it would be relevant to reproduce the provisions of Section 12(2) of the Act, 1894 and Section 37(2) of the Act, 2013 in juxta position:

Section 12(2) of the Act, 1894	**Section 37(2) of the Act, 2013**
12(2). The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.	**37(2).** The Collector shall give immediate notice of his awards to such of the persons interested who are not present personally or through their representatives when the awards are made.

33. From bare reading of these two provisions and comparison of

Section 12(2) of the old Act with Section 37(2) of the new Act, it appears that both the provisions are *pari materia* / identical and provides that Collector shall give immediate notice of his award to such persons, those are interested and not present personally or through their representatives, when the award is made. This would be treated as intimation of award and, therefore, the limitation would start from the intimation received by the land loser and land loser may file the reference case within six weeks from the receipt of the notice under Section 12(2) of the old Act or Section 37(2) of the new Act. However, in the new Act, in place of "Section 37(2)", "Section 21" has been mentioned. To consider the relevancy of Section 21, it is essential to quote Section 21(1) of Act, 2013, which reads as under:

> "**21. Notice to persons interested**.–(1) The Collector shall publish the public notice on his website and cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensations and rehabilitation and resettlement for all interests in such land may be made to him."

34. From reading of Section 21(1) of Act, 2013, it appears that after the publication of the public notice on the website and other convenient places stating that the Government intends to take possession of the land and the claims to compensation and rehabilitation and resettlement for all interest in such land may be made to the Collector. Meaning thereby, the notice under Section 21(1) ordinarily issued before passing the award and this provision is *pari materia* to Section 9 of the old Act, 1894, which reads as under:

> "**9. Notice to persons interested**. - (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensations for all interests in such land may be made to him."

35. By no stretch of imagination, it can be accepted that the limitation for filing a reference case would start from receipt of notice under Section

21 of Act, 2013, which is a notice giving intimation to the land losers that Government is interested to acquire the land and settle the claims of the compensation, rehabilitation, resettlement and all other interest in the land and which is an notice to be issued before passing an award and, therefore, has nothing to do with the limitation of filing of reference petition.

36. Considering the same, in view of this Court, in Section 64(2)(b) in place of "Section 21" it ought to be "Section 37(2)" and, therefore, by applying the rule of reading down the said clause, **Section 64(2)(b) is read down as under** :

> "**64(2)(b):** in other cases, within six weeks of the receipt of the notice from the Collector under **section 37(2),** or within six months from the date of the Collector's award, whichever period shall first expire:
>
> Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso."

37. If we read this clause as mentioned hereinabove, it will give its full meaning and will not be prejudicial to anyone either land losers or the Land Acquisition Authority. Accordingly, this Court is of the view that the word "Section 37(2)" should be read to calculate the limitation for filing the reference petition under Section 64 of the Act, 2013.

38. If the provision 64(2)(b) of Act, 2013 would not be read down as suggested hereinabove, the position would be that the Land Acquisition Officer will pass the award in the absence of the land loser or his representative and will not serve the notice of passing the award for a period of more than 18 months and in that situation, in any case, the land loser would not be entitled to file any reference petition and the award passed by the Land Acquisition Authority would attained finality by depriving the land losers to challenge the compensation assessed by the Land Acquisition Officer before the Reference Court.

39. A holistic approach is required for interpreting the provisions and it is a duty cast upon the Collector to issue notice of his award to the person interested, who was not present personally or through representative when the award is made. The purpose of issuance of notice is that the land loser, who is having the right of property and protection under Article 300A of the Constitution of India, in case of deprivation by acquisition, may take appropriate action in accordance with the law.

40. In this context, the judgment delivered by the Supreme Court in the matter of ***Parsottambhai Maganbhai Patel and others v/s State of Gujarat and another, (2005) 7 SCC 431*** is relevant, wherein the Supreme Court has decided that the limitation under the latter part of the Section 18(2)(b) of the Act, 1894 has to be computed having regard to the date, on which the claimants got knowledge of the declaration of the award, either actual or constructive and their application under Section 18 of the Act, 1894 within the period of limitation from the knowledge of the award, would be maintainable. The relevant paragraph of the judgment reads as under:

> *"**6.** Learned counsel for the appellants rightly placed reliance upon the judgment of this Court in Raja Harish Chandra Raj Singh v. Dy. Land Acquisition Officer and submitted that since the appellants were not present when the award was made, and no notice was given to them under Section 12(2) of the Act, the application for making a reference under Section 18 of the Act must be held to be within time if it is filed within six months of the date of knowledge of the declaration of the award. In our view, the submission is sound and must be accepted. This Court in Raja Harish Chandra Raj Singh[1] was dealing with a case in which an award was declared under the Act on 25-3-1951. No notice under Section 12(2) of the Act was given to the claimants. It was only on 12-1-1953 that the claimants came to know about the declaration of the award whereafter they filed an application claiming a reference under Section 18 of the Act on 24-2-1953. The High Court of Allahabad held that the case fell under the latter part of clause (b) of the proviso to Section 18 and since the application made by the appellants before the Land Acquisition Officer for claiming a reference under Section 18 was made beyond six months from the date of the award in question, it was beyond time. This view of the*

High Court was overruled by this Court and in doing so the Court made the following pertinent observations: (SCR pp. 682-84)

> *"Therefore, if the award made by the Collector is in law no more than an offer made on behalf of the Government to the owner of the property then the making of the award as properly understood must involve the communication of the offer to the party concerned. That is the normal requirement under the contract law and its applicability to cases of award made under the Act cannot be reasonably excluded. Thus considered the date of the award cannot be determined solely by reference to the time when the award is signed by the Collector or delivered by him in his office; it must involve the consideration of the question as to when it was known to the party concerned either actually or constructively. If that be the true position then the literal and mechanical construction of the words 'the date of the award' occurring in the relevant section would not be appropriate.*
>
> *There is yet another point which leads to the same conclusion. If the award is treated as an administrative decision taken by the Collector in the matter of the valuation of the property sought to be acquired it is clear that the said decision ultimately affects the rights of the owner of the property and in that sense, like all decisions which affect persons, it is essentially fair and just that the said decision should be communicated to the said party. The knowledge of the party affected by such a decision, either actual or constructive, is an essential element which must be satisfied before the decision can be brought into force. Thus considered the making of the award cannot consist merely in the physical act of writing the award or signing it or even filing it in the office of the Collector; it must involve the communication of the said award to the party concerned either actually or constructively. If the award is pronounced in the presence of the party whose rights are affected by it it can be said to be made when pronounced. If the date for the pronouncement of the award is communicated to the party and it is accordingly pronounced on the date previously announced the award is said to be communicated to the said party even if the said party is not actually present on the date of its pronouncement. Similarly if without notice of the date of its pronouncement an award is pronounced and a party is not present the award can be said to be made when it is communicated to the party later. The knowledge of the*

party affected by the award, either actual or constructive, being an essential requirement of fair play and natural justice the expression 'the date of the award' used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively. In our opinion, therefore, it would be unreasonable to construe the words 'from the date of the Collector's award' used in the proviso to Section 18 in a literal or mechanical way."

7. *This Court, therefore, held that the limitation under the latter part of Section 18(2)(b) of the Act has to be computed having regard to the date on which the claimants got knowledge of the declaration of the award either actual or constructive. This principle, however, will apply only to cases where the applicant was not present or represented when the award was made, or where no notice under Section 12(2) was served upon him. It will also apply to a case where the date for the pronouncement of the award is communicated to the parties and it is accordingly pronounced on the date previously announced by the Court, even if, the parties are not actually present on the date of its pronouncement. Coming to the facts of the instant case the High Court has not rejected the plea of the appellants that they came to know of the award only when compensation was being paid to them in July 1988. They had admittedly no notice under Section 12(2) of the Act. They had therefore filed the application under Section 18 of the Act on 22-9-1988 well within the period of limitation. The Reference Court recorded a finding in favour of the appellants but the High Court has reversed that finding without applying the principle laid down in Raja Harish Chandra.*

Moreover, we find from the grounds of appeal filed before the High Court that the assertion of the claimants that they came to know of the declaration of the award only when compensation was being paid to them in July 1988, has not even been challenged."

41. The Supreme Court in a celebrated case of ***Bhagwandas and others (supra)***, considered this issue in detail and after considering it reiterated the law laid down by the Supreme Court in the matter of ***Parsottambhai Maganbhai Patel and others (supra)***, by holding that the words "within six months from the date of Collector’s award" has to be read to mean "six months from the date of actual or constructive knowledge of essential contents of the award" and the expression is not to be interpreted literally,

because such an interpretation would lead to absurd results inasmuch as person not having knowledge of award, would be deprived of opportunity to seek reference to Court and the procedure would become unfair and discriminatory and violative of Article 14 and 300A of the Constitution of India. The Supreme Court has further held that the onus of proof would be on the applicant to state on oath that he or his representative was not present, when the award was made and he has not received any notice or intimation of passing the award and not aware of contents of the award, then the onus will shift on Collector to prove otherwise that the applicant was having the actual or constructive knowledge of the passing of award. The Supreme Court further held that the limitation period for making the application for reference to the Court would be six months from the receipt of the knowledge of the award. The relevant paragraph of the judgment reads as under:

> *"**24**. When land is acquired and an award is made under Section 11 of the Act, the Collector becomes entitled to take possession of the acquired land. The award being only an offer on behalf of the Government, there is always a tendency on the part of the Collector to be conservative in making the award, which results in less than the market value being offered.*
>
> ***25**. Invariably, the land-loser is required to make an application under Section 18 of the Act to get the market value as compensation. The land-loser does not get a right to seek reference to the civil court unless the award is made. This means that he can make an application seeking reference only when he knows that an award has been made.*
>
> ***26**. If the words six months from the "date of the Collector's award" should be literally interpreted as referring to the date of the award and not the date of knowledge of the award, it will lead to unjust and absurd results. For example, the Collector may choose to make an award but not to issue any notice under Section 12(2) of the Act, either due to negligence or oversight or due to any ulterior reasons. Or he may send a notice but may not bother to ensure that it is served on the landowner as required under Section 45 of the Act. If the words "date of the Collector's award" are literally interpreted, the effect would be that on the expiry of six months from the date of*

award, even though the claimant had no notice of the award, he would lose the right to seek a reference. That will lead to arbitrary and unreasonable discrimination between those who are notified of the award and those who are not notified of the award.

***27**. Unless the procedure under the Act is fair, reasonable and non-discriminatory it will run the risk of being branded as being violative of Article 14 as also sticle 300-A of the Constitution of India. To avoid such consequences, the words "date of the Collector's award" occurring in proviso (b) to Section 18 requires to be read as referring to the date of knowledge of the essential contents of the award, and not the actual date of the Collector's award.*

***28**. The following position therefore emerges from the interpretation of the proviso to Section 18 of the Act:*

> *(i) If the award is made in the presence of the person interested (or his authorised representative), he has to make the application within six weeks from the date of the Collector's award itself.*
> *(ii) If the award is not made in the presence of the person interested (or his authorised representative), he has to make the application seeking reference within six weeks of the receipt of the notice from the Collector under Section 12(2).*
> *(iii) If the person interested (or his representative) was not present when the award is made, and if he does not receive the notice under Section 12(2) from the Collector, he has to make the application within six months of the date on which he actually or constructively came to know about the contents of the award.*
> *(iv) If a person interested receives a notice under Section 12(2) of the Act, after the expiry of six weeks from the date of receipt of such notice, he cannot claim the benefit of the provision for six months for making the application on the ground that the date of receipt of notice under Section 12(2) of the Act was the date of knowledge of the contents of the award.*

***29**. A person who fails to make an application for reference within the time prescribed is not without remedy. It is open to him to make an application under Section 28-A of the Act, on the basis of an award of the court in respect of the other lands covered by the same acquisition notification, if there is an increase. Be that as it may.*

***30**. When a person interested makes an application for reference*

seeking the benefit of six months' period from the date of knowledge, the initial onus is on him to prove that he (or his representative) was not present when the award was made, that he did not receive any notice under Section 12(2) of the Act, and that he did not have the knowledge of the contents of the award during a period of six months prior to the filing the application for reference. This onus is discharged by asserting these facts on oath. He is not expected to prove the negative. Once the initial onus is discharged by the claimant/person interested, it is for the Land Acquisition Collector to establish that the person interested was present either in persy or through his representative when the award was made, or that he had received a notice under Section 12(2) of the Act, or that he had knowledge of the contents of the award.

***31**. Actual or constructive knowledge of the contents of the award can be established by the Collector by proving that the person interested had received or drawn the compensation amount for the acquired land, or had attested the mahazar/panchnama/ proceedings delivering possession of the acquired land in pursuance of the acquisition, or had filed a case challenging the award or had acknowledged the making of the award in any document or in statement on oath or evidence. The person interested, not being in possession of the acquired land and the name of the State or its transferee being entered in the revenue municipal records coupled with delay, can also lead to an inference of constructive knowledge. In the absence of any such evidence by the Collector, the claim of the person interested that he did not have knowledge earlier will be accepted, unless there are compelling circumstances not to do so."*

42. The judgment delivered by the Supreme Court in the matter of ***Bhagwandas and others (supra)*** was further relied by the Supreme Court in the matter of ***Premji Nathu (supra)***, wherein the Supreme Court has held that even the knowledge of the award is not sufficient and the limitation for filing reference application would start from receipt of the copy of the award or the notice from the Collector under Section 12(2) of the Act, 1894. The relevant paragraph reads as under:

*"**21**. A careful reading of the averments contained in Para 2 of the application filed by the appellant under Section 18(1) shows that the notice issued by the Collector under Section 12(2) was served upon him on 22-2-1985. Thereafter, his advocate obtained certified copy of the award and filed application dated 8-4-1985 for making a reference to the Court. This implies that the copy of the award*

had not been sent to the appellant along with the notice and without that he could not have effectively made an application for seeking reference.

***22**. On behalf of the State Government, no evidence was produced before the Reference Court to show that the copy of the award was sent to the appellant along with the notice. Unfortunately, while deciding Issue 3, this aspect has been totally ignored by the Reference Court which mechanically concluded that the application filed on 8-4-1985 was beyond the time specified in Section 18(2)(b). The learned Single Judge of the High Court also committed serious error by approving the view taken by the Reference Court, albeit without considering the fact that the notice issued by the Collector under Section 12(2) was not accompanied by a copy of the award which was essential for effective exercise of right vested in the appellant to seek reference under Section 18(1)."*

43. Though the counsel for the petitioner relied on several other judgments of other High Courts to bolster his arguments, but in view of the law laid down by the Supreme Court in the cases of ***Parsottambhai Maganbhai Patel and others (supra)***, ***Bhagwandas and others (supra)*** and ***Premji Nathu (supra)***, which are still holding the field, it is not relevant to discuss the other judgments, as the position of law is clear that as per the Supreme Court, the limitation for filing the reference case would start from the date of knowledge of the award.

44. **Consequently, the question (a) is answered by holding that the word used "Section 21" in "Section 64(2)(b) of the Act, 2013" should be read down as "Section 37(2)" and if the land loser or his representative was not present at the time of passing the award and Collector has not served any intimation or notice of passing of the award as per Section 37(2) of the Act, 2013, the limitation for filing the reference case will start from the date of knowledge of the award and the land loser can file the reference petition within six months from the date of knowledge of the award**.

Consideration of Question (b):

45. The Collector is authorized and empowered to take a decision upon receipt of the reference petition from the land loser and if in the view of the Collector, the petition is time barred, he may refuse to refer it to the Reference Court. The act of the Collector to refer the reference petition to the Reference Court is an executive act and if a Collector has referred the reference petition to the Reference Court, it ought to have been decided on merits and cannot be dismissed on the ground of maintainability and even cannot be dismissed in default, because until and unless the Court will pass the award in accordance with Section 69 & 70 of the Act, 2013, the proceedings would not be terminated and passing of award is *sine qua non* in the reference case.

46. An order would not be treated as an award, if it does not contain the details of the land acquired, the market value of the land assessed by the Land Acquisition Officer and details of all the heads and assessment of total compensation. The award shall also include the assessment made by the Reference Court regarding the correctness of the market value assessed by the Land Acquisition Officer and if the compensation amount is enhanced, all the details will be included in award. Until and unless all this information is not available, the order will not be treated, as an award.

47. As per Section 70 of Act, 2013 (Section 26 of Act, 1894), the award will be executable as decree of the Court. The Supreme Court, after considering different views of High Courts, in the matter of ***Khazan Singh (Dead) by Lrs. v/s Union of India, (2002) 2 SCC 242*** held that the civil Court is duty bound to pass an award in answer to the reference and even in a case of non-participation by any party, the reference petition cannot be dismissed for default. Meaning thereby, if a reference petition has been referred to the Reference Court, the Reference Court cannot dismiss it on any preliminary stage and is under an obligation to decide it on merits. The

relevant paragraph reads as under:

> *"**6**. Section 18 of the Act empowers a person interested in the land to move by a written application to the Collector requiring that the matter be referred for determination of the court, whether his objection be to the measurement of the land, the amount of compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested. If the application for reference is in order the Collector is bound to make a reference of it to the court. Section 20 of the Act enjoins on the court to "proceed to determine the objection". The court shall after holding such inquiry as may be necessary pass an award. Section 26 of the Act reads thus: "26. Form of Awards. (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of Section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.*
> *(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of Section 2 clause (2) and Section 2 clause (9), respectively, of the Code of Civil Procedure, 1908."*
>
> *7. The provisions above subsumed Would thus make it clear that the 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 his risk because an award would be passed perhaps to the detriment of the party concerned. But non-participation of any party would not confer jurisdiction on the civil court to dismiss the reference for default.*
>
> ***8**. It appears that various High Courts have taken the aforesaid view in a number of decisions: Abdul Karim v. State of M.P., Bhadar Munda v. Dhuchua Oraon², Shyam Shankar Sahai v. State of Bihar, Joseph v. Govt. of Kerala and Jogi Sahu v. Collectors.*
>
> ***9**. In Joseph v. Govt. of Kerala Paripoornan, J. (as he then was) speaking for a Division Bench has made reference to two earlier decisions of Single Judges, one by the same High Court and the other by the Karnataka High Court which held the same view."*

48. The judgment delivered by the Supreme Court has been relied by the Division Bench of Bombay High Court in the matter of ***Diwakar Prabhakar Chopade (supra)***, wherein the Division Bench of the Bombay

High Court has held that the reference petition is required to be decided on merits and an order otherwise on merits cannot be treated as an award under Section 26(2) of the Act, 1894.

49. **In view of the above, the question (b) is answered by holding that if a reference petition is referred by the Collector to the Reference Court under the provisions of Section 18 of the Act, 1984 or Section 64 of the Act, 2013, the Civil Court / Reference Court is duty bound to decide the same on merits and cannot reject the same at any preliminary stage without deciding on the merits.**

Consideration on Question (c):

50. The respondent No. 3 has raised the issue of maintainability of civil revision and submits that Civil Revision under Section 115 of the Code of Civil Procedure would not lie against the rejection of a reference case and the order of rejection of reference petition, amounts to an award under Section 70 of Act, 2013 and, therefore, the only remedy available to the petitioner is to file an appeal under Section 74 of the Act, 2013. He relied on the judgment delivered by the Coordinate Bench in the matter of ***Jagdish (supra)*** and the judgments delivered by the Bombay High Court in the mater of ***Venkat Baburao Karle (supra)***, ***Chandu (supra)*** and ***Diwakar Prabhakar Chopade (supra)*** and submits that the revision petition would not be maintainable.

51. Counsel for the petitioner relied on the judgment delivered by the Coordinate Bench in the matter of ***Somli (supra),*** which has been relied by other Coordinate Benches also. When the judgments of the High Court of M.P. are available, there is no occasion for this Court to look into the judgments delivered by the Bombay High Court for the purpose of deciding the issue, because the judgment delivered by the Coordinate Benches are binding on this Court and as per the Doctrine of *Stare Decisis*, this Court cannot ignore the judgments passed by the Coordinate Benches.

The Coordinate Bench has decided the issue in ***Somli (supra)*** and held that the civil revision petition will be maintainable. The order passed by another Coordinate Bench in the matter of ***Jagdish (supra)*** relied by the counsel for the respondent No. 3 is having no authoritative value in view of the Doctrine of *Stare Decisis*, as at the time of passing the order in the matter of ***Jagdish (supra)***, the Coordinate Bench has not considered and referred the earlier judgment passed by a Bench of similar strength in ***Somli (supra)*** and, therefore, in view of this Court, the subsequent judgment passed taking contrary view is *per incuriam*.

52. A Special Bench of this Court in the case of ***Jabalpur Bus Operators Association v/s State of M.P. and others, 2003 (1) MPLJ 513*** has held that in case of a conflict between decisions of Courts comprising equal number of Judges, decision of earlier Bench is binding. Therefore, the ratio laid down by a co-ordinate bench in the matter of ***Jagdish (supra)*** cannot be relied on and the judgment delivered in the matter of ***Somli (supra)*** holds the field.

53. **Consequently, question (c) is answered by holding that Civil Revision Petition under Section 115 of the CPC is maintainable, impugning order of rejection of the reference petition under Order VII Rule 11 of CPC by the Reference Court.**

Conclusion:

54. In view of above conspectus, this Court records the following conclusion: -

(a) The word used "Section 21" in "Section 64(2)(b) of the Act, 2013" should be read down as "Section 37(2)" and if the land loser or his representative was not present at the time of passing the award and Collector has not served any intimation or notice of passing of the award as per Section 37(2) of the Act, 2013, the limitation for filing the reference case will start

from the date of knowledge of the award and the land loser can file the reference petition within six months from the date of knowledge of the award.

(b) If a reference petition is referred by the Collector to the Reference Court under the provisions of Section 18 of the Act, 1984 or Section 64 of the Act, 2013, the Civil Court / Reference Court is duty bound to decide the same on merits and cannot reject the same at any preliminary stage without deciding on the merits.

(c) Civil Revision Petition under Section 115 of the CPC is maintainable, impugning order of rejection of the reference petition under Order VII Rule 11 of CPC by the Reference Court.

(d) Impugned orders passed by the Reference Court rejecting the reference petitions as time barred are not sustainable and are hereby set aside and the matters are remanded to the Reference Court to decide the reference cases on merits in accordance with law after affording the opportunity of hearing to the parties.

(e) All the present Civil Revision Petitions are **allowed** in above terms. No order as to costs.

55. Let a copy of this order be kept in the record of all the connected Civil Revision Petitions.

(VINAY SARAF)
JUDGE

Divyansh