

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

936. CRA/30/2015 WITH CRA/165/2014 WITH CRA/167/2014

BASWARAJ MALLIKARJUN BUDAGE
V/S
THE STATE OF MAHARASHTRA AND OTHERS

Mr. M.L. Dharashive, Advocate for applicants.

Mr. P.N. Mule, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 24th July, 2015.

ORDER :

1. All the three proceedings are filed to challenge the judgments and orders delivered in three land acquisition references by the learned Civil Judge, Senior Division, Nilanga. Both the sides are heard.

2. The judgment delivered shows that the applicants who had filed the references did not turn up for giving evidence and so, the matters came to be dismissed for want of evidence. The learned counsel submitted that the blame needs to be put on the advocate, who did not give correct and clear instruction to the clients. He placed reliance on the case reported as **2011 (3) Mh.L.J. 208 [Appasaheb s/o. Mohanrao Chede Vs. State of Maharashtra and Anr.]** in which this Court held that the references cannot be rejected only on the ground of failure of the claimant to adduce the evidence. It is observed that the

reference Court should give sufficient and full opportunity to the petitioner to put forth his case.

3. Nothing could have been achieved by the applicants by not giving evidence before the regular Court. The references were made for enhancement of the compensation in respect of properties of the applicants acquired by the Government. In view of these circumstances, this Court holds that opportunity needs to be given to the applicants to lead the evidence. As the other side is required to spend on the present proceedings, this Court holds that some conditions need to be imposed like payment of cost in each proceeding. The cost of Rs. 2000/- needs to be paid by the applicants in each proceeding for getting the relief.

4. In the result, all the three applications are allowed subject to condition of payment of cost of Rs. 2000/- (Rupees two thousand) in each proceeding. The cost amount is to be deposited in this Court within one month. Only after depositing the aforesaid amount in each proceeding, copy of the order is to be sent to the Reference Court for hearing of the matters on merits. If the cost amount is not deposited, it is to be treated that the present proceedings are dismissed.

[T.V. NALAWADE, J.]

ssc/