

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

**FIRST APPEAL NO.1043 OF 2015
WITH
FIRST APPEAL NO.1044 OF 2015**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.G.K.Sontakke, advocate for the Appellant.
Mr.D.V.Tele, Asstt. Govt. Pleader for the State.
Mr.P.P.Kulkarni, Mr.B.R.Surwase, advocates for Respondent No.2.

**CORAM : S.V.GANGAPURWALA, J.
Date : 31.08.2015.**

PER COURT :

1. Heard.
2. Learned counsel for the appellants submits that in fact, the evidence was led in a lead matter, however, the said matter was segregated. All the evidence was filed in the lead Reference No.159/2008. As these matters were segregated, subsequently, the evidence was not led and the appellants were under the impression that the evidence led in lead Reference would be read in the present matters. The Court dismissed the Reference on the ground that no evidence is led inspite of giving opportunity to the claimants. The learned counsel submits that in the other References in respect of land acquired for the same project, higher compensation has been

awarded by the Reference Court. The learned counsel submits that opportunity be given to adduce evidence.

3. Learned Asstt. Govt. Pleaders and learned counsel for the acquiring body oppose the request on the ground that Reference Court has granted ample opportunity to the appellants to adduce evidence, still, have failed to adduce evidence. The lands are also situated in different villages. The notifications U/s 4 of the Land Acquisition Act are also different. As such present matters were segregated. In case this Court is inclined to afford opportunity to the appellants then the appellants shall not be entitled for statutory benefits for the delayed period. The learned counsel relies on the judgment of the Apex Court in a case of **“Ramanlal Deochand Shah Vs. State of Maharashtra and another”** reported in **AIR 2013 Supreme Court 3452**.

4. The learned counsel for the appellants submits that for the same project, lands from 22 villages are acquired.

5. I have considered the submissions. The Reference Court has held that the References are filed within limitation. However, on the ground that no evidence has been led inspite of sufficient opportunity, the References are dismissed vide Judgment and order dated 15.11.2014. The said judgment is a recent one.

6. In normal course, I would have asked the claimants to waive the statutory benefits from the date of the judgment of the

Reference till date. However, considering that initially all the References were being tried together, subsequently these References are segregated. So also considering that the judgment of the Reference Court, assailed is recent one, I am inclined to grant one more opportunity to adduce evidence.

7. In light of the above, the impugned judgment and order is quashed and set aside. The parties are relegated before the Reference Court for deciding the References afresh. The parties shall appear before the Reference Court on 28.9.2015. The Reference Court shall thereafter decide the said References expeditiously, preferably within nine (9) months. The parties are entitled to adduce additional evidence. No costs.

(S . V . GANGAPURWALA, J .)

Dt.31.08.2015.
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