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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

**CIVIL APPLICATION NO.8033/2015
IN
FIRST APPEAL (ST.) NO.15096/2015**

Malayappa Mahalppa Irkar.
...Applicant..

Versus

The State of Maharashtra & others.
...Respondents...

.....

Shri V.V. Bhavthankar, Advocate for applicant.
Shri P.P. More, AGP for the State.

.....

CORAM: N.W. SAMBRE, J.

DATE: 24.07.2015

ORDER :

1] For the reasons stated in the application and in the interest of justice, delay caused in preferring first appeal is condoned subject to the applicant herein / appellant waiving the benefit of interest from the date of non-appearance till 24.8.2015, if any, to be awarded in case if the claim for enhancement is allowed.

2] The first appeal is taken up for hearing and final disposal at this stage with the consent of learned

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counsel for the parties.

3] The appeal is preferred against the order dated 12.3.2013 passed by the Civil Judge, Senior Division, Udgir, whereby the Land Acquisition Reference u/s 18 of the Land Acquisition Act came to be dismissed as the appellant herein has failed to adduce any evidence in support of the claim for enhancement of the compensation.

4] The learned counsel for the appellant submits that due to unavoidable circumstances, the appellant was not able to attend the proceedings before the Reference Court.

5] Perusal of the order dismissing reference u/s 18 reflects that the Reference Court has in a cryptic manner proceeded to order dismissal of the reference for non-production of evidence. The reference as such is not decided on merits.

6] It will be in the interest of justice that the appellant – claimant, who is a farmer, be given an opportunity of hearing and produce evidence.

7] In view thereof, the order dated 12.3.2013 of the Reference Court dismissing the reference is hereby set aside. The matter stands restored to the file of the

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learned Civil Judge, Senior Division, Udgir. The appellant undertakes to appear before the Reference Court on 24.8.2015 alongwith the evidence which he intends to tender. Failure of the appellant to appear before the Reference Court on 24.8.2015 shall result in recalling of the present order without further reference to the Court. The first appeal accordingly stands disposed of. No order as to costs. Hamdast is allowed.

(N.W. SAMBRE, J.)