

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

CIVIL REVISION APPLICATION NO 162 OF 2014

Vitahl S/o Mahadan Lawate
Died through L.Rs.
Shantabai W/o Vithal Lawate,
Age: 68 years, Occu : Household,
R/o Bori-Matola, Tq. Omerga,
Dist. Osmanabad.

**.. Petitioner.
(orig.Claimant)**

Versus

The State of Maharashtra
Through Collector, Latur,
Tq. & Dist. Latur.

.. Respondent.

Shri. S.N. Patne, Advocate for Petitioner.

Shri. S.Y. Mahajan, AGP for respondent/State.

CORAM : T.V. NALAWADE, J.
DATED : 10th December, 2015.

JUDGMENT :

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. The revision is filed to challenge the judgment and award of LAR No. 83/2004, which was pending in the Court of Civil Judge, Senior Division, Omerga. The reference under section 18 of the Land Acquisition Act filed by the present

petitioner is dismissed by the Reference Court as nobody has turned up to prosecute the matter and no evidence is given.

3. It appears that the petitioner did not turn up to lead evidence. In the past also, the proceeding was dismissed and this Court had given liberty and opportunity to the petitioner to lead the evidence and get the decision on merits from the Reference Court. He failed to turn up and so, the petition is dismissed.

4. In the present petition also, the petitioner is putting the blame on the advocate and submitted that no instructions were given and there was some miscommunication. Nothing could be achieved by not leading the evidence. Today the learned counsel for petitioner showed to this Court that for the same project when matters were filed for compensation of acquired land,, references were decided and this Court enhanced the compensation. He produced the copy of judgment delivered by this Court in First Appeal No. 137/1994 [Bansilal s/o. Pannalal Dhoot and Anr. Vs. The State of Maharashtra] dated 18.6.2012. In view of these circumstances, this Court holds that last opportunity can be given to the petitioner. However, there

will be question of huge amount of interest and so, the petitioner will not be entitled to get interest from the first dismissal of the proceeding by the Reference Court i.e. 20.6.2006 till today. The learned counsel for petitioner has made a statement that the petitioner will not be claiming interest in respect of above period.

5. In view of these circumstances, the petition is allowed. The judgment and award of the Reference Court is set aside. The matter is remanded back to the Reference Court for deciding it afresh. The reference Court is to dispose of the matter expeditiously and in any case, within four months from the date of receipt of this order. If the petitioner does not lead the evidence to prosecute the matter, there will be liberty to the Reference Court to pass similar order, order of dismissal.

[T.V. NALAWADE, J.]

ssc/