

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Civil Appellate Jurisdiction.**

C.R.A.(ST.) NO.25582/2015.

GOVIND S/O MARUTI PATIL & ORS.
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR.

Appearance =>

Mr. Vivekanand V.Ingale, Advocate for the Applicants.

Mr. D.V. Tele, Additional Government Pleader, for the State of Maharashtra.

Coram : S.V. Gangapurwala, J.

Date : 1st October, 2015.

Per Court :-

Issue Notice to the Respondents.

[2] The learned Additional Government Pleader waives service of notice for the Respondents. Taken up for final hearing with the consent of the parties.

[3] Mr. Ingale, learned counsel submitted that reference filed by the present Applicants under Section 18 of the Land Acquisition Act came to be dismissed, as the claimants could not adduce the evidence. According to the learned counsel, the learned counsel for the claimants had not communicated the date fixed for hearing, to the claimants. Further, the learned counsel for the claimants remained absent before the Court. Claimants are poor agriculturist residing in

remote village. One more opportunity be given to the claimants to prove their case. The claimants are ready to tender undertaking to this court stating that in case, reference court enhanced the compensation amount then the claimants would not claim the statutory benefits for the delayed period.

[3] The learned Additional Government Pleader opposed the claim of the Applicants and submitted that reference court has granted ample opportunity to the claimants however, they remained absent. No sufficient cause is stated.

[4] I have considered the submissions. It appears that the agricultural land of the claimants was acquired. That was the source of their livelihood. It appears that claimants - agriculturist are residing in remote rural village. They appear to be rustic person. Naturally they would rely upon the communication from their Advocate.

[5] Considering the aforesaid aspect, I am inclined to grant one more opportunity to the claimants on condition that in case, the reference court comes to the conclusion to award enhanced compensation then claimants would not be entitled to claim statutory benefits for the delayed period.

[6] In the light of the above, I pass the following order :-

ORDER

- (i) Impugned Judgment and Order is quashed and set aside.
- (ii) Land Reference Application No.1270 Of 2009 (Old No.1083/02) is restored to its original position.
- (iii) Parties shall appear before the Reference Court on 30th October, 2015.
- (iv) Considering the fact that matter is remanded back, Reference Court is directed to dispose of the matter, expeditiously.
- (v) In case, the Reference Court comes to conclusion to award enhanced compensation then in that case, claimants have waived statutory benefits from 5th January, 2013 till this date.
- (vi) Civil Revision Application is disposed.
- (vii) No costs.

(S.V. GANGAPURWALA, J.)