

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL (STAMP) NO. 28125 OF 2015

NAVNATH VITHOBA GAIKWAD DECEASED THR LRS ARCHANA AND
OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Appellants : Pahune Patil Nandkishor J.
AGP for Respondents: Mr.S.P.Sonpawale
...

CORAM : S.V.GANGAPURWALA,J.

DATED : 12TH OCTOBER, 2015

ORDER :-

The Reference filed by predecessor of the present appellant u/s 18 of the Land Acquisition Act is dismissed. Aggrieved thereby, the present appeal.

2] Mr.Pahune Patil, learned counsel for the appellant submits that the matter was referred to the Lok Adalat, however, in the Lok Adalat, matter could not be settled and thereafter, the matter was returned back to the Court and when the matter was listed first time on board, the Court dismissed the Reference on the ground that no evidence is adduced. The learned counsel now submits that opportunity be given to the appellants to adduce the evidence.

3] The learned AGP submits that opportunity was given to the appellants to adduce the evidence, however, the appellants did not avail said benefit. Even applications were filed by them for

adjournment. No error has been committed by Reference Court.

4] I have gone through the judgment. From the judgment it appears that the claimants did not adduce any evidence and as such, reference is dismissed. The original claimant no.1 had died during pendency of the Reference. Appeal is filed by legal heirs.

5] It appears that after the matter was referred back from the Lok Adalat, appellants failed to adduce any evidence. It appears that the appellants are residents of remote rural villages, they are agriculturists and they are rustic persons. The reasons given can be accepted. The applicants have also given undertaking in application for condonation of delay in filing appeal that in case reference court enhances the compensation amount, they would not claim statutory benefits for delayed period.

6] Considering above, I am inclined to grant one more opportunity to the claimants.

7] The impugned judgment and award is quashed and set aside. The Land Reference No.78/2001 is restored to its original position. Parties shall appear before Reference Court on **16/11/2015**. In case the Reference Court comes to the conclusion to enhance the compensation amount, then appellants have waived statutory benefits for delayed period from 26/3/2012 till 15/11/2015. Copy of this order be sent to the Reference Court. First Appeal is accordingly disposed of. No costs.

[S.V.GANGAPURWALA,J.]

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