

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

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33 CIVIL REVISION APPLICATION NO. 184 OF 2015

ANANT BHANUDAS LOMTE

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR OSMANABAD

...

Advocate for Petitioner : Mr. Shaikh Shoyab

AGP for Respondents: Mr. P. N. Kutti

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CORAM : S. V. GANGAPURWALA, J.

DATE : 13th October, 2015

PER COURT :

1. Issue notice to the respondents. Learned AGP waives notice for the respondents. Taken up for final hearing with the consent of the parties.

2. The Reference filed by the present petitioner under section 18 of the Land Acquisition Act is dismissed. The learned counsel for the petitioner submits that the Court passed an order forfeiting right of the petitioner to adduce evidence on 14.08.2014 and subsequently, within 10 days, dismissed the Reference. Learned counsel submits that even respondents had not filed any written statement/say to the Reference. According to the learned counsel, the petitioner was not intimated by his advocate about the requirement to adduce

evidence. The petitioner is residing in a village.

3. Learned AGP submits that ample opportunity was given to the appellant to adduce the evidence, however, the appellant failed to adduce evidence. According to the learned AGP, the Reference Court has not committed any error while dismissing the Reference in absence of evidence.

4. I have gone through the order.

5. It appears that, on 24th November, 2013, "No written statement" order is passed by the Reference Court. Since then, petitioner remained absent to adduce evidence. Going through the cause title, it is manifest that the petitioner is agriculturist. Agricultural land i.e. his source of livelihood has been acquired.

6. Considering the aforesaid factual aspect, I am inclined to grant one more opportunity to the petitioner to lead evidence, however on certain terms. In the result, I pass following order:

O R D E R

- i. The impugned order is quashed and set aside. Land Acquisition Reference No. 521/2011 is restored to

its original position.

ii. The parties shall appear before the Reference Court on 18th November, 2015.

iii. Respondent may file its written statement. The petitioner is permitted to lead evidence.

iv. In case the court comes to conclusion to enhance the compensation amount, then the petitioner/claimant is not entitled for the statutory benefits for the delayed period i.e. from 20th February, 2013 till 18th November, 2015.

v. Copy of this order be sent to the concerned Reference Court.

vi. Civil revision application is accordingly disposed of. No costs.

(S. V. GANGAPURWALA, J.)

JPC