

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

9 CRA NO. 81 OF 2016

NARAYAN S/O BALARAM DUBELE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH DIST. COLLECTOR
AURANGABAD AND ANOTHER

...

10 CRA NO. 82 OF 2016

MAHADU S/O KALURAM DUBELE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH DIST. COLLECTOR
AURANGABAD AND ANOTHER

...

11 CRA NO. 83 OF 2016

MAHADU S/O. KALURAM DUBELE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

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Advocate for Petitioners : Kawade Arvind R.
AGP for Respondents 1 & 2: S.P. Sonpawale

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CORAM : T.V. NALAWADE, J.
DATED : 1st July, 2016.

ORDER :

1. The revisions are filed to challenge the judgments and awards of Reference Court given in L.A.R. Nos. 570, 578 and 579 of 2009. The References were pending in the Court of Civil Judge, Senior Division, Aurangabad. It appears that no evidence was given to prove the claim in the references and as no interest was shown by remaining present in the Court, on the basis of

record available, the matters are decided and the references are dismissed. The learned counsel for petitioners submitted that such decisions cannot be treated as award. He submits that an opportunity needs to be given to the petitioners to take decision on merits. The learned AGP has opposed these revisions.

2. The learned counsel placed reliance on the two cases which are as follows :-

(i) C.R.A. St. No. 33657/2014 & Ors. (between Shivabai s/o. Harishchandra Pawar (Died) through L.Rs. Vs. The State of Maharashtra] decided on 17.5.2016 (decided by this Court) and

(ii) C.R.A. No. 114/2003 [Kawadu Madhav Bansod Vs. State of Maharashtra] decided on 2.7.2003.

3. The learned counsel for claimants is taking blame to himself. As the matter is not decided on merits, this Court holds that opportunity needs to be given to the claimants to get the decision on merits. In view of the observations made in aforesaid cases, the revisions are allowed. The aforesaid judgments and awards of the Reference Court are hereby set aside and matters are remanded back to the Reference Court for fresh decision. The Reference Court is to give opportunity to both the sides. The matters are to be expedited and in any case, are to be disposed

of within six months from the date of this order. If no interest is shown to prosecute the matters, it can be dismissed again and in that case there will be no restoration of the matters. The period for which proceeding was not pending before the Reference Court is to be considered and in respect of that period, there will be no interest payable and such oral undertaking is given by the learned counsel for applicants. Parties are to appear in the Reference Court on 8.8.2016.

[T.V. NALAWADE, J.]

ssc/