

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

First Appeal No.494 of 2016

- * Bapurao @ Bapusaheb s/o Limbraj
Deshmukh,
Since deceased through legal
representatives:
- A. Balasaheb s/o Bapusaheb Deshmukh,
Age 55 years,
Occupation : Agriculture,
R/o Katpur,
Taluka and District Latur.
- B. Lalasaheb s/o Bapusaheb Deshmukh,
Age 53 years,
Occupation : Agriculture,
R/o Katpur,
Taluka and District Latur.
- C. Bachesaheb s/o Bapusaheb Deshmukh,
Age 53 years,
Occupation : Agriculture,
R/o Katpur,
Taluka and District Latur. **... Appellants.**

Versus

- 1) The State of Maharashtra
Through the Collector, Latur
District Latur.
- 2) The Executive Engineer (LMI)
Division Latur,
Taluka and District Latur. **... Respondents.**

Shri. V.D. Gunale, Advocate, for appellants.

Shri. C.V. Dharurkar, Assistant Government Pleader, for respondents.

CORAM: T.V. NALAWADE, J.

DATE : 23rd FEBRUARY 2016

JUDGMENT:

1) The appeal is admitted. Notice after admission made returnable forthwith. By consent heard both sides for final disposal.

2) The original claimant has challenged the decision of the Reference Court, Civil Judge, Senior Division, Latur given in Land Acquisition Reference No.488 of 2003. The reference is dismissed by the Reference Court on the ground that no evidence was given and nobody turned up to prosecute the matter. The Reference Court has held that the proceeding was filed within prescribed period of limitation.

3) Learned counsel for the appellant, original claimant submits that the claimant is entitled to get more

amount of compensation than awarded by the Special Land Acquisition Officer as the claimant has relied on sale instances of higher rate. He submits that nothing could have been achieved by the claimant in not prosecuting the matter. He submits that ordinarily the parties go to the Court only when Advocate call them and in he present matter there was lack of communication between the claimant and the Advocate and due to that the claimant was not appearing in the Court. There is force in this submission. As the claim is dismissed only due to want of evidence, this Court holds that opportunity needs to be given to lead evidence.

4) In the result, the appeal is allowed. The judgment and award of the Reference Court is hereby set aside. The matter is remanded back to the Reference Court for fresh trial. Both the side are allowed to lead evidence. The proceeding is to be disposed of within six months from the date of receipt of the order.

Sd/-

(T.V. NALAWADE, J.)

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