

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

6 CRA NO. 305 OF 2015

RAJARAM JAGANNATH LOMTE

VERSUS

**THE STATE OF MAHARASHTRA
THROUGH COLLECTOR, OSMANABAD**

.....

Mr. A.S.More, Advocate for Applicant.

Mr. S.P.Sonpawle, A.G.P. for R.No. 1.

.....

CORAM : T.V.NALAWADE, J.

DATE : 13th JUNE, 2016

ORAL ORDER :-

. The proceeding is filed to challenge the Judgment and Order dated 22/11/2012 in L.A.R. No. 527/2011 which was pending in the Court of the Jt. Civil Judge [Sr.Division], Paranda. It appears that due to circumstance like transfer of the matter from Osmanabad Court to Paranda Court, the claimant could not attend the new Court and could not take steps to give evidence. Heard both sides.

2. It appears that no evidence is given by the

original claimant and due to that the Reference is rejected. Learned counsel for the applicant submitted that opportunity needs to be given to the claimant to lead the evidence as he has got case on merit. To show the tenability, learned counsel for the applicant has placed reliance on the cases reported in 2011 (3) Mh.L.J. - 208 [Appasaheb s/o Mohanrao Chede Vs. State of Maharashtra & Anr.], 2004 (2) Mh.L.J. - 503 [Kawadu s/o Madhav Bansod Vs. State of Maharashtra & Anr.] and the decision of this Bench in Civil Revision Application No. 169 of 2005 dated 15/01/2007.

3. In view of the facts and circumstances of the present matter and the observations made by this Court, Civil Revision Application is tenable, to give opportunity to the original claimant, this Court holds that the decision of the Reference Court needs to be set aside.

4. The aforesaid decision is set aside and the matter is restored to its original number in the Reference Court and the parties to appear in the Reference Court on 25/07/2016. The Reference Court to decide the Reference within 6 months from the date of this Order. If no interest is shown to prosecute the matter, the matter can be dismissed again as sufficient opportunity is given to the claimant.

[T.V.NALAWADE, J.]

