

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

916 CRA NO. 170 OF 2014

SAYED ANSAR SAYED YOUSUF
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Adgaonkar Ravibhushan P
AGP for Respondents 1 & 2 : S.P. Sonpawale
Advocate for Respondent 3 : A.S. Deshpande
...

CORAM : T.V. NALAWADE, J.
DATED : 9th August, 2016.

ORDER :

1. Heard the learned counsel for petitioner and the learned AGP. The learned counsel for original claimant of reference is also heard.

2. It appears that the Reference Court has dismissed the proceeding as the claimant did not show interest to prosecute the matter and he did not lead evidence. The learned counsel for petitioner submitted that he was party respondent in the said proceeding and he has right to prosecute the matter in view of one compromise decree. The original claimant is also before this Court and it was submitted for original claimant also that opportunity needs to be given for adducing evidence. In view of these circumstances, this Court holds that for giving the

opportunity to the original claimant, respondent of reference, the present petitioner, the order needs to be set aside. The said decision cannot be treated as award.

3. In the result, petition is allowed. The judgment and award of Reference Court delivered in L.A.R. No. 34/2001 by the Court of Civil Judge, Senior Division, Latur is set aside. The matter is restored to its original stage. The Reference Court is to give opportunity to both the sides to lead the evidence. Present petitioner and original claimant will not be entitled to interest on the amount, if any, awarded as compensation for the period for which there was no proceeding before the Reference Court i.e. from 24.7.2013 to till today. Parties are to appear before the Reference Court on 30.9.2016. The Reference Court is to decide the matter expeditiously and in any case, within six months from the date of receipt of this order and if no interest is shown to prosecute the matter, the proceeding can be dismissed.

[T.V. NALAWADE, J.]

ssc/