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

CIVIL REVISION APPLICATION NO. 160 OF 2015

Shri. Motiram s/o Shankar Pawar,
Age: 60 years, Occ: Agri.,
R/o. Sastur, Tq. Omerga (Lohara)
District Osmanabad. ..APPLICANT

VERSUS

1. The State of Maharashtra,
Through the District Collector,
Osmanabad.
2. The Executive Engineer,
Irrigation Division,
Zilla Parishad, Osmanabad. ..RESPONDENTS

Mr Amit A. Mukhedkar, Advocate for applicant;
Mr A.M. Phule, A.G.P. for respondent No.1

CORAM : N.W. SAMBRE, J.

DATE : 27th JUNE, 2017

ORAL ORDER :

The applicant's Land Acquisition Reference under Section 18 of the Land Acquisition Act being Land Acquisition Reference No. 786 of 2005 came to be rejected, as barred by limitation by the judgment and order passed by Civil Judge, Senior Division, Omerga on 18th February, 2010. As such,

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present civil revision application.

2. Mr. Mukhedkar, learned Counsel for the applicant submits that even if presuming that notice under sub section (2) of Section 12 of the Land Acquisition Act (for short, 'the Act') was served or received by the applicant, same will not be considered as effective service unless copy of the award was enclosed therewith. According to him, the fact remains that copy of award alongwith said notice was not served and in fact, it is only after receipt of the copy of award, reference came to be preferred.

3. Learned Assistant Government Pleader opposed the claim on the ground that once there was service of notice under sub section (2) of Section 12 of the Act, it was bounden duty of the applicant to get copy of award delivered by the Land Acquisition Officer. According to him, civil revision application be dismissed.

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4. What could be gathered from the rival submissions and available record is, even if presuming that the applicant has received notice under sub section (2) of Section 12 of the Act of passing of award by the Land Acquisition Officer, however, the same does not speak of serving of copy of award passed by the Land Acquisition Officer on the applicant and as such, it cannot be termed to be good service for the purpose of calculating limitation as provided under Section 18 of the Act.

5. In view of above, in my opinion, case for interference is made out. The judgment and order passed by the Reference Court impugned in the present civil revision application dismissing the reference being Land Acquisition Reference No. 786 of 2005 is hereby quashed and set aside. It is directed that delay if any caused in preferring the said Reference stood condoned and Reference of the present applicant be decided on its own merits upon giving appropriate opportunity to the applicant.

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6. With above observations, civil revision application stands partly allowed.

(N.W. SAMBRE, J.)

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