

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

WRIT PETITION NO. 11156 OF 2016

Dattatraya Rambhau Shewale
and others

...Petitioners

VERSUS

The State of Maharashtra
and others

...Respondents

.....

Shri R.K.Temkar, advocate for petitioners
Shri P.S.Patil, A.G.P. for respondents

.....

CORAM : S.V.GANGAPURWALA, J.

DATED : 16th January, 2017

O R D E R :-

Rule. Rule returnable forthwith. Learned
A.G.P. waives service of notice for the
respondents. Heard with the consent of the
learned counsel for the respective parties.

2. Reference filed by the petitioners is
rejected under order dated 12.11.2014, on the
ground that the Court fee is not paid.

3. Mr. Temkar, learned counsel for the petitioners submits that the petitioners made reference and same was remitted to the District Court. The petitioners were not intimated about the reference with District Court. They did not get the knowledge of the order being passed by the District Court. The petitioners are ready to pay the court fee. The learned counsel on instructions states that petitioners are ready to waive the statutory benefits for the delayed period.

4. The learned A.G.P. states that, as the court fee is not paid, the Court has rightly passed the order dismissing the reference.

5. It appears that, the petitioners were not aware of the proceedings pending before the District Court. As such, he could not remain present. I am inclined to give one more opportunity to the petitioners, more so, as the petitioners have shown bona fides by waiving

statutory benefits from the date of filing the reference till 31.1.2017.

6. In the light of above, I pass following order.

The impugned order is quashed and set aside. The petitioners shall pay the required court fee by 31.1.2017 before the concerned court.

In case the Reference Court comes to the conclusion that the petitioners are entitled for enhancement of the compensation amount, then the petitioners will not be entitled for the statutory benefits on the said enhanced amount since the date of filing Reference till 31.1.2017.

Rule is made absolute in the above terms.

No costs.

(S.V.GANGAPURWALA, J.)

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