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

CIVIL REVISION APPLICATION NO. 277 of 2015

Balkrishna Narayanrao Yergewar & another ...PETITIONERS

VERSUS

The State of Maharashtra and others ...RESPONDENTS

Mr R.B. Narwade Patil, Advocate for petitioners

Mr. S.R. Yadav, Assistant Government Pleader

for respondents No.1 & 2.

Mr B.R. Survase, Advocate for respondent No.3.

CORAM : N.W. SAMBRE, J.

DATE : 2nd August , 2017

ORAL ORDER

Heard Sri S.R. Yadav, learned Assistant Govt. Pleader for respondents No.1 and 2 and Mr Survase, learned Counsel for respondent No.3.

2. The Reference Court in exercise of powers under Section 18 of the Land Acquisition Act dismissed the reference, vide order dated April 8, 2015, on two counts (a) that the present applicants have failed to adduce evidence in support of claim for enhanced compensation, and (b) the reference petition is not within limitation.

(2)

3. While countering the above, the learned Counsel for the applicants submits that the applicants would not seek any adjournment in the Reference Court and shall adduce evidence as and when directed by the Reference Court. He would then urge that in the interest of justice, a chance be given to applicants to adduce evidence as they shall not claim any interest on compensation amount from the date of their absence till the date of reference petition is restored. In addition, the applicants will not seek any adjournment in Reference Petition and shall cooperate the Reference Court in expeditious disposal of reference.

4. The learned Counsel then would urge that notice under sub section (2) of Section 12 of the Land Acquisition Act is dated 12th December 2005. However, learned Reference Court has erroneously held that such notice is received by the applicants on the same date i.e. 12th of December 2005. According to him, the applicants were not present when the award was passed. As such, the applicants had no knowledge about the same. For the first time, they got knowledge after receipt of notice under sub-section (2) of Section 12 of the Land Acquisition Act.

5. Shri Survase, learned Counsel for respondent No.3 and Shri S.R. Yadav, learned Asstt. Govt. Pleader for respondents No.1 and 2 opposed the claim.

(3)

6. In my opinion, in the interest of justice, a chance is required to be given to the applicants as they have come out with reasonable prayer that they shall not claim any interest on compensation amount for a period from 2007 till this date on the enhanced compensation. He further assured this Court that he be given a chance. He shall adduce evidence at at the first instance without seeking further adjournment.

7. As such, the order of forfeiture of right to lead evidence of the applicants is set aside.

8. Matter is restored back on the file of the learned Reference Court by setting aside order dated April 8 2015, passed in Land Acquisition Reference No. 248 of 2007.

9. Issue of limitation is kept open as the Reference Court shall decide the same afresh.

10. With above observations, the present application stands allowed.

(N.W. SAMBRE, J.)

pjm