

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

911 FIRST APPEAL NO. 811 OF 2017

SHAIKH UMRAO SHAIKH KALU AND ANOTHER
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, JAYAKWADI PROJECT,
AURANGABAD AND ANOTHER

...
Advocate for Appellants : Mr. Ajeet B. Kale.
AGP for Respondent No.1 : Mr. A. M. Phule.
Advocate for Respondent No.2 : Mr. Sudhir Bhalerao.
...

CORAM : **V. K. JADHAV, J.**
DATE : 19th July, 2017.

ORDER:

. Heard finally with consent at admission stage.

2 Being aggrieved by the judgment and award passed by the 4th Joint Civil Judge Senior Division, Aurangabad dated 8th February, 2013 in LAR No.162 of 2000, the original Claimants have preferred this appeal.

3 The 4th Joint Civil Judge Senior Division, Aurangabad vide impugned judgment and award as aforesaid, rejected the reference petition.

4 The learned counsel for Appellants / original Claimants submits that the reference petition though preferred in the year 2000,

initially it was lying before the Civil Judge Senior Division and thereafter, it was transferred to the District Court and again re-transferred to the Civil Judge Senior Division. The learned counsel submits that during the pendency of the said reference petition, the Appellants / Claimants have filed application Exhibit 9 for referring the matter to Lok Adalat. However, the matter was not settled before the Lok Adalat and again it was sent back to the Court. Meanwhile, the Appellants / Claimants being labours, left their native to some other place to earn their livelihood and as such, the Appellants / Claimants could not lead the evidence before the Reference Court. Agricultural land owned and possessed by the Appellants / Claimants came to be acquired by the State and the Special Land Acquisition Officer has awarded inadequate compensation. The learned counsel submits that the Appellants / Claimants would not claim the interest for the delayed period if the matter is remitted back.

5 The learned counsel for Respondent / acquiring body submits that the Reference Court has observed in the impugned judgment and award that for near about 12 years, the Appellants / Claimants have not adduced evidence and the Reference Court has therefore, dismissed the claim petition for want of evidence. The learned counsel submits that there is no merit in the appeal and the

appeal is thus, liable to be dismissed on this count alone.

6 I have also heard the learned AGP for the Respondent / State.

7 On perusal of the record and proceedings particularly *Roznama*, it appears that this reference petition was transferred from one Court to another Court frequently. It further appears that in the year 2011, at the instance of the Appellants / Claimants, the matter was referred to the Lok Adalat, however, it was sent back to the Court as the matter was not settled. It is the case of the Appellants / Claimants that they are labours by occupation and as such, to earn livelihood, they shifted to some another place. The agricultural land owned and possessed by the Appellants / Claimants came to be acquired for certain project and according to them, the Special Land Acquisition Officer has not awarded just and reasonable compensation. In view of the same, one more opportunity needs to be given to the Appellants / Claimants to substantiate their claim before the Reference Court. However, the Appellants / Claimants would not be entitled to claim the interest of the delayed period. Hence, the following order:

ORDER

- I. The appeal is hereby partly allowed. No costs.
- II. The judgment and award passed by the 4th Joint Civil Judge Senior Division, Aurangabad in dated 8th February, 2013 in LAR No.162 of 2000, is hereby quashed and set aside.
- III. The matter is remanded to the Reference Court with the following directions:
 - a) Restore LAR No.162 of 2000 to its original number.
 - b) The Appellants / Claimants are at liberty to adduce oral and documentary evidence in support of their contentions and the Respondents / acquiring body and State are also at liberty to adduce oral and documentary evidence in rebuttal.
 - c) The Appellants / Claimants shall appear before the Reference Court on 16th August, 2017 and the Reference Court shall decide the reference petition afresh within three months from the date of

appearance of the Appellants /
Claimants.

IV. It is hereby made clear that the Appellants /
Claimants would not be entitled for the interest of
the delayed period, in case they succeed in their
reference petition.

V. Record and proceedings be sent back to the
Reference Court.

VI. The appeal is accordingly disposed of.

[V. K. JADHAV, J.]

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