

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

922 FIRST APPEAL NO.1495 OF 2018

SUKHDEO ANANDA SHEVATRE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Appellants : Mr. Jogdand Patil Vijay B.
Mr. PG Borade, AGP for Respondents: 1 & 2;
Mr. Deshpande Sanjeev B. For R/3.

CORAM : P.R. BORA, J.
DATED : 2nd November, 2018.

PER COURT:-

1. Heard Shri Jogdand, learned counsel appearing for appellant and Shri Deshpande learned counsel for acquiring body.

2. Perusal of the impugned judgment reveals that the Reference Court has dismissed the Reference Application only on the ground that the claimant did not adduce any evidence in order to substantiate his claim. The grounds on which the Reference Court has rejected the Reference Application is apparently unsustainable. The Reference Court on this ground could not have rejected the reference application. In the circumstances, the only option before this Court is to remit back the matter to the Reference Court for deciding it afresh. The learned counsel for

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appellant has prayed for permission to adduce necessary evidence before the Reference Court. In the interest of justice, the request is accepted. In view of the above, following order is passed, -

ORDER

- i. Order dated 13.8.2015 passed by 5th Joint Civil Judge, Senior Division, Jalna in LAR No.2153/2010 (Old) No. 400/2007, is quashed and set aside;
- ii. The Reference Court is directed to permit the appellant original claimant to adduce necessary evidence in support of his claim.
- iii. Needless to state that the respondents will have equal opportunity to adduce evidence, if they so desire, on their behalf;
- iv. The Reference Court shall decide the Reference Application afresh on its own merits.
- v. The appeal stands allowed in the aforesaid terms.

(P.R. BORA)
JUDGE

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