

(1)

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

915 FIRST APPEAL NO.1867 OF 2015

**SOPAN APPARAO PAWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Appellants : Mr. S.S. Manale h/f Mr.
Sable Bhagwan R.

AGP for Respondents : Mr. A.M. Phule

...

CORAM : P.R. BORA, J.

DATED : 29th JANUARY, 2019.

PER COURT:-

. Heard Shri Manale, the learned counsel appearing for the appellants and Shri Phule, the learned AGP appearing for the respondent-State.

2. The perusal of the impugned judgment and award reveals that the Reference Court has rejected the reference application on the sole ground that the appellants-claimants did not adduce any evidence in support of their claim. In fact, the Reference Court could not have adopted the said course. The reference application cannot be dismissed on the aforesaid ground.

3. The learned counsel for the appellants-claimants submitted that the appellants undertake to adduce necessary evidence on their behalf if the

(2)

matter is remitted to the Reference Court immediately on the first or second date before the Reference Court without seeking any adjournment. In the circumstances, I deem it appropriate to pass the following order:

ORDER

- i) The impugned judgment and award passed in L.A.R. No.224 of 2013 on 07.02.2014 is set aside.
- ii) The matter is remitted to the Reference Court to decide it afresh by giving due opportunity to the appellants-claimants to adduce necessary evidence in order to substantiate their claims.
- iii) Needless to state that the respondents would have equal opportunity to rebut the contentions raised on behalf of the appellants and adduce the evidence from their side.
- iv) The first appeal stands disposed of.
- v) The parties to appear before the Reference Court on 14.02.2019 so that no fresh notice may be required to be issued by the said Court.

(P.R. BORA, J.)