

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

95 FIRST APPEAL NO.180 OF 2019

SANGITA SAYAJIRAO DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Appellant : Mr. Ganesh Vilasrao Patil
AGP for Respondent : Mr. S.J. Salgare

...
CORAM : P.R. BORA, J.
Date: January 21, 2019
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PER COURT :-

1 Heard learned counsel appearing for the appellant and learned AGP appearing for the respondent State.

2 Land Acquisition Reference (LAR) No.394/2000 has been dismissed by the Reference Court only on the ground that the claimant in the said application did not adduce evidence though ample opportunities were extended to her. The said order is challenged in the present appeal.

3 It is a matter of record that the Reference application was dismissed in the year 2014. The appeal along with application for condonation of delay came to be filed only in the year 2019 i.e. after about five years. It is also the matter of record that while condoning the delay, this Court has specifically observed

that in the event, the delay is condoned and the Court decides to remit the matter to the Reference Court for deciding it afresh, the claimant will not be entitled for the interest for the period of 12 years since the period of 19 years has been consumed after filing of the Reference application by the appellant. In tune with the observations made by this Court in the delay condonation application, the present appeal can be disposed of with the same observations. It has to be stated that the Reference Court could not have dismissed the Reference application only on the ground that the claimant did not adduce the necessary evidence therefor. In the circumstances, matter has to be remitted to the Reference Court for deciding afresh by giving due opportunity to the claimant as well as the respondent to adduce evidence in support of their respective contentions. As such, I am inclined to allow the present appeal. Hence, the following order:-

ORDER

- (I) The order of the Reference Court in LAR No.394/2000 dated 24.9.2014 is quashed and set aside.
- (II) The matter is remanded to the Reference Court to decide the aforesaid LAR afresh by giving due opportunity to the present appellant i.e. original claimant to adduce necessary evidence in order to prove her claim.

- (III) Needless to state that the Reference Court shall provide equal opportunity to the respondent to rebut the contentions raised in the Reference Application and if so required to adduce independent evidence to support the contentions raised by it.
- (IV) It is made clear that in the event, the Reference Court enhances the amount of compensation, the claimant shall not be entitled for the interest of the period of 12 years from the date of filing of the Reference Application i.e. 20.1.2000.
- (V) The appeal stands allowed in the aforesaid terms.

(P.R.BORA)
JUDGE

vbd

