

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

WRIT PETITION NO.4309 OF 2019

GANGARAM NARAYAN DHONE THROUGH LRS. RAM
GANGARAM DHONE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH
COLLECTOR, LATUR

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Advocate for Petitioners : Mr. Ingale Vivekanand V.
AGP for Respondents : Mr. A S Shinde

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CORAM : V.K. JADHAV, J.
Dated: January 31, 2020

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PER COURT :-

1. Heard both sides.
2. The original claimant in LAR No.454 of 2015 filed an application for amendment in the reference by adding two new respondents. Out of the proposed respondents one is the Special Land Acquisition Officer, who had declared the award and other is the Executive Engineer of the acquiring body. By order dated 26.02.2019 Reference Court has rejected the said application. It appears that Reference Court has rejected the said application for the reason that the matter is protracted for the considerable long period.

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3. However, in a case **N.T.P.C. Ltd., Vs. State of Bihar and others, reported in 2004 (12) SCC 96**, the Supreme Court of India in paragraph nos.7 to 9 and 11 to 13 held that Award passed in the absence of a body on whose behalf the land has been acquired, said body is liable to be impleaded in proceedings before Reference Court since it is a necessary and proper party and its rights would be defeated in case of non-impleadment. The Supreme Court consequently set aside the award and remanded the matter to the Reference Court. In view of the above, the impugned order is not sustainable so also the S.L.A.O., who has also declared the award is also necessary party. Hence, following order.

O R D E R

- I. Writ Petition is hereby allowed.
- II. The impugned order dated 26.2.2019 passed by the 2nd Jt. Civil Judge S.D., Omerga, District Osmanabad below Exh.55 in LAR No.454 of 2015 is hereby quashed and set aside.

III. Application at Exh.55 in LAR No.454 of 2015 is allowed in terms of its prayer clause in its entirety.

IV. Writ Petition accordingly disposed off.

(V.K. JADHAV, J.)

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