

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1448 OF 2021

Bharat Laxmidas Thakkar,
Age : 65 years, Occu. Agri.,
R/o Paranda, Tq. Paranda,
District Osmanabad

PETITIONER
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
2. The Executive Engineer,
Minor Irrigation,
Sarvekshan Department,
Osmanabad
3. The Special Land Acquisition Officer,
Medium Project Minor Irrigation,
Osmanabad, Head Office at
Paranda, Tq. Paranda,
District Osmanabad

RESPONDENT
(Orig. Respondents)

Mr. Yogesh C. Patil, Advocate holding for Mr. Abhijit S. More,
Advocate for the petitioner
Mr. K.B. Jadhavar, A.G.P. for the respondent/State
Mr. Gulab B. Rajale, Advocate for respondent No.2

CORAM : MANGESH S. PATIL, J.

DATE : 20.10.2021

ORAL JUDGMENT :

Heard both the sides.

2. Rule. The Rule is made returnable forthwith and heard finally
with the consent of both the sides.

3. A reference under Section 18 of the Land Acquisition Act has been dismissed by the impugned order, in default of the petitioner to lead any evidence inspite of sufficient opportunities having been extended to him.

4. It is trite that it is a reference under Section 18 of the Land Acquisition Act and is not an adversarial litigation. Once a reference is made by the Special Land Acquisition Officer, it is imperative for the reference court to decide it on merits either way. It is apparent that by the impugned order, the reference court has simply dismissed it in default instead of deciding it on merits.

5. In view of such state-of-affairs, with a rider that the petitioner is not allowed to reap the benefit of his own wrong and making him to forgo his claim for the interest for the intervening period, the writ petition can be allowed.

6. The Writ Petition is allowed with the following directions:

(a) The impugned order is quashed and set aside. The reference shall stand restored to original file.

(b) The parties shall appear before the reference court on 17.11.2021. There shall be no need for it to issue notice to them.

- (c) The petitioner shall file his affidavit in lieu of examination-in-chief on the date of his appearance before the reference court as indicated hereinabove.
 - (d) The reference court shall thereafter decide the reference as expeditiously as possible.
 - (e) The petitioner shall not be entitled to claim any interest for the period from the date of dismissal of the proceeding i.e. 29.12.2014 till 17.11.2021.
7. The Rule is made absolute in above terms.

[MANGESH S. PATIL]
JUDGE