

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 FIRST APPEAL NO.1010 OF 2008

RUSTUM DADARAO AAGE
VERSUS
THE STATE OF MAHARASHTRA

Mr D.R. Jayabhar, Advocate for appellant
Mr P.M. Kulkarni, A.G.P. for respondent/State

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 9th DECEMBER, 2021

PER COURT :

1. Heard Mr D.R. Jayabhar, learned Advocate for the appellant and Mr P.M. Kulkarni, learned A.G.P. for respondent/State.

2. This appeal came to be admitted on 5.2.2008.

3. Mr Jayabhar, learned Advocate for the appellant invited my attention to the orders passed in First Appeal No.289 of 2014 with connected appeals, First Appeal No.527 of 2006 etc. arising out of the same award produced vide Article "X". He pointed out that in the abovesaid First Appeals, this Court was pleased to remand the matters to the reference Court for decision afresh since acquiring body was not made party to the L.A.Rs.

4. Mr P.M. Kulkarni, learned A.G.P. for respondent/State fairly concedes that acquiring body was not made party to the L.A.Rs. before the reference Court. He also fairly concedes the decision given by this Court in First Appeal No.289 of 2014 with connected appeals, First Appeal No.527 of 2006, First Appeal No.189 of 2012 with connected appeals, First Appeal St.No.14737 of 2010 with connected appeals, First Appeal No.2680 of 2018

with connected appeals, First Appeal No.2967 of 2018 with connected appeals.

5. It is submitted across the Bar that this appeal is arising out of the same judgment and award and since the acquiring body was not made party to the references before the reference Court, the abovesaid matters were remanded to the reference Court for decision afresh.

6. Certainly, the same exercise needs to be done by following the view earlier taken by this Court in above referred matters.

ORDER

(i) The first appeal is hereby partly allowed.

(ii) The impugned judgment and award passed in L.A.R.No.92 of 1995 by the reference Court at Beed dated 9.1.2006 is hereby set aside. The matter is remanded to the reference Court for fresh decision.

(iii) The appellant/original claimant shall add acquiring body as a party to the reference proceedings.

(iv) The appellant/claimant shall appear before the reference Court on 28th January 2022.

(v) The reference Court shall extend an opportunity to both the sides to file their written statements and after affording opportunity to all the parties to adduce their oral and documentary evidence in support of their case, decide the reference on its own merits.

- (vi) The reference Court shall decide the reference within a period of one year after appearance of all the parties and after completion of pleadings.
- (vii) The R & P be sent back to the reference Court.
- (viii) The first appeal is disposed of accordingly.

(SHRIKANT D. KULKARNI, J.)

VVR