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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 591 OF 2020**

Sayed Mohammad Shah Abdul Hamid Kadri ...Appellant
Versus
Special Land Acquisition Officer ...Respondent

Mr Suraj S Palshikar, i/b Shriram S Kulkarni, for the Appellant.
Ms Tanaya Goswami, AGP for the State-Respondent.

**CORAM: G.S. Patel &
Madhav J. Jamdar, JJ.**
DATED: 15th November 2021

PC:-

1. Leave to amend to add the the heirs of the deceased Appellant. The delay, if any, is condoned. Amendment to be carried out in the course of one week without need of reverification.
2. We are inclined to remand the matter to the learned Civil Judge, Senior Division, Alibag for a decision afresh in a reference under Section 18 of the Land Acquisition Act 1894.
3. It seems that in this matter, as in other matters that have come before this Court, on non-appearance of the Appellant, the learned trial Judge dismissed the matter on merits rather than for default simpliciter. This result in a dismissal on merits without the

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Appellant being heard. The Appellant's Advocates may well have further submissions to make

4. Accordingly, we setting aside the impugned order dated 29th March 2017 and request the learned Joint Civil Judge, Senior Judge, Alibag to hear the reference at his earliest convenience and in any event before 31st January 2022.

5. The Appellant undertakes not to seek adjournments before the Joint Civil Judge, Senior Division, Alibag.

6. The First Appeal is disposed of in these terms.

7. We express no opinion on merits. All contentions are left open.

8. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J.)

(G. S. Patel, J)