

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1543 OF 2021

1. Darshan S/o Prabhu Khawas
Age- 25 years, Occu- Agriculture,
R/o. Dhanaj, Tq. Mudkhed,
Dist. Nanded.
2. Gyanoba S/o Prabhu Khawas
Age- 37 years, Occ- Agriculture,
R/o. Dhanaj, Tq. Mudkhed,
Dist. Nanded. ...Petitioners

Versus

1. The State of Maharashtra
Through the Collector, Nanded.
2. Special Land Acquisition Officer,
Nanded.
3. Sub Divisional Officer,
Sub-Division Office, Nanded. ...Respondents
[Orgi. Respondents]

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Mr. M.R. Sonawane h/f. Mr. Bharat N. Gadegaonkar, Advocate for
the petitioner.

Mr. Y.G. Gujarathi, AGP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th SEPTEMBER, 2022

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally
with the consent of learned advocate for the parties.

2. This petition filed under Article 226 and 227 of the Constitution of India, impugns the judgment and order dated 16.07.2019 passed by Civil Judge, Senior Division, Nanded in Land Acquisition Reference No. 138 of 2007, thereby rejecting the land acquisition reference as the petitioners failed to adduce evidence.

3. Indisputably, the issue involved in this petition is covered by the judgment of this Court (Coram: V.K. Jadhav, J.) in Writ Petition No. 12795 of 2019 and connected writ petitions, wherein this Court has held that the reference has to be decided on merits. Since, in those matters, references were rejected due to failure on the part of the petitioners therein to adduce evidence, this Court has held that the reference Court did not decide the references on merits and therefore set aside the orders passed by the reference Court and restored the references and directed to decide the references on merits.

4. Admittedly, in the present case also the reference is not decided on merits and the same is rejected solely on the ground that the petitioners failed to adduce evidence. The present case is therefore squarely covered by the above-referred

decision. Hence, the following order:-

ORDER

- (I) The writ petition is allowed.
- (II) The impugned judgment and order dated 16.07.2019 passed by learned Civil Judge, Senior Division, Nanded, in Land Acquisition Reference No. 138/2007 is hereby quashed and set aside.
- (III) The matter is relegated back to the concerned reference Court for decision on merits, after giving an opportunity to the respective parties.
- (IV) The reference Court shall expedite the hearing of the matter and decide the same within a period of six months from the date of receipt of this order. Parties to co-operate.

Rule is made absolute in the above terms.
No costs.

[NITIN B. SURYAWANSHI, J.]