

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

WRIT PETITION NO.1963 OF 2021

. HamidabeeAllauddin Shaikh
Age: 84 years, Occu: Household,
R/o: Village Kolpa, Tq. & Dist. Latur ... Petitioner

Versus

1. The State of Maharashtra
Through District Collector, Latur
2. The Special Land Acquisition Officer
Minor Irrigation Works, Latur
3. The Executive Engineer
Minor Irrigation Division, Latur ... Respondents

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Mr. A. A. Joshi h/f Mr. Natu Sharad V., Advocate for Petitioner
Mrs. G. L. Deshpande, AGP for Respondent Nos.1 & 2
Mr. R. M. Gaikwad, Advocate for Respondent No.3

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 24th June, 2022

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.
2. By this petition, filed under Articles 226 & 227 of the Constitution of India, the petitioner takes exception to the order

dated 27-09-2016 passed by the learned 2nd Joint Civil Judge, Senior Division, Latur in L.A.R. No.219 of 2011, thereby rejecting the Land Acquisition Reference as the petitioner failed to adduce evidence.

3. Admittedly, the issue involved in the present writ petition is no more res-integra in view of the decision of this Court (Coram : V.K. Jadhav, J.) in Writ Petition No.12795 of 2019 and connected writ petitions. This Court has held that the reference has to be decided on merits. In those matters, the reference Court did not decide the references on merit and rejected the respective references, as the petitioners therein failed to adduce the evidence. This Court 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 petitioner 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 passed by the learned learned 2nd Joint Civil Judge, Senior Division, Latur in L.A.R. No.219 of 2011 is hereby quashed and set aside.
- (III) The matter is relegated back to the reference Court for decision on merits, after giving an opportunity to the respective parties.
- (IV) In case, the reference Court allows the reference filed by the petitioner, the point of interest shall be considered on its own merits without being influenced by this order.
- (V) 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 cooperate.
- (VI) Rule is made absolute in above terms. No costs.

[NITIN B. SURYAWANSHI, J.]