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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4863 OF 2021

Uttamrao Madhavrao Yenikar

PETITIONER

VERSUS

The State of Maharashtra

RESPONDENT

.....

Mr. Manoj D. Shinde, Advocate for the petitioner

Mr. S N. Kendre , AGP for respondent - State

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th JULY, 2022

ORDER :

1. By this petition, filed under Article 227 of the Constitution of India, the petitioner challenges the judgment and Award dated 20th August, 2010 passed by the learned Civil Judge, Senior Division, Ahmedpur Camp at Udgir, in Land Acquisition Reference No. 2838 of 2001 thereby rejecting the reference.

2. The petitioner owned and possessed land survey No. 38/1 admeasuring 30 Are situated at Mauje Yenki, Taluka – Udgir, District – Latur. The said land was acquired by the respondent for small percolation tank. The Special Land Acquisition Officer passed the Award, however, since adequate compensation was not granted, the petitioner filed Land Acquisition Reference No.

2838 of 2001 under section 18 of the Land Acquisition Act, 1894.

3. The Reference of the petitioner is rejected on the ground that the petitioner failed to produce any document in support of his claim and has not lead any evidence. Therefore, the petitioner failed to prove his claim for enhancement of compensation. Hence, the present writ petition.

4. Heard learned advocate for the petitioner and learned Assistant Government Pleader for the respondent.

5. The issue involved in the present writ petition is no more *res integra* in view of the judgment passed by this Court in Writ Petition No. 12795 of 2019 and connected matters, wherein this Court has held that the reference has to be decided on merits. In the said matters, references were rejected due to failure 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 order passed by the Reference Court and restored the references and directed the Reference Court to decide the same on merits.

6. Indisputably, in present case also, the reference is not decided by the Reference Court on merits and the same is rejected on the ground that the petitioner failed to adduce

evidence. The present case, therefore, is squarely covered by the above referred decision.

7. In the result, following order :

ORDER

- I. Writ petition is allowed in terms of prayer clause "B".
- II. Impugned order dated 20th August, 2010 passed by Civil Judge, Senior Division, Ahmedpur, Camp Udgir in Land Acquisition Reference No. 2838 of 2001 is hereby quashed and set aside.
- III. The matter is relegated back to the Reference Court for deciding the same on merits, after affording opportunity of hearing to the respective parties.
- IV. The Reference Court shall dispose of the reference as expeditiously as possible, preferably within a period of six months from the date of receipt of writ of this order. Parties to co-operate for expeditious disposal of the reference.

[NITIN B. SURYAWANSHI]
JUDGE