

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1449 OF 2021

Ranganath Ganpati Pathak
Died through his Lrs.

1. Janardhan Ranganath Pathak
Age- 45 Years, Occ- Agri.,
R/o. Kaudgaon, Tq. Paranda,
Dist. Osmanabad.
2. Shashikala Kacharu Lohar
Age- 52 years, Occ- Agri.,
R/o. Kaudgaon, Tq. Paranda,
Dist. Osmanabad.
At Preseht Kothrud, Dist. Pune. ...Petitioners

Versus

1. The State of Maharashtra
Through the Collector
Osmanabad.
2. The special Land Acquisition Officer
M.I.W. Osmanabad, Head Quarter
Paranda, Dist. Osmanabad.
3. The Executive Engineer
Seena Kolegaon Project Division,
Paranda, Tq. Paranda,
Dist. Osmanabad. ...Respondents

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Mr. Abhijit S. More, Advocate for the petitioners.
Mr. S.W. Munde, AGP for respondent No. 1 and 2.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 29th AUGUST, 2022

ORAL JUDGMENT :

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

2. The land acquisition reference of the petitioners filed under Land Acquisition Act, 1894, is dismissed, as the petitioners failed to lead oral evidence.

3. It is the case of the petitioners that initially reference was filed in the Court of Civil Judge, Senior Division, Osmanabad, however, same was subsequently transferred to Civil Judge, Senior Division, Paranda. Said fact was not intimated to the petitioners by their advocate.

4. I have heard the learned advocate for the petitioners and learned Assistant Government Pleader. Though served, respondent No. 3 has not caused appearance.

5. 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.

6. 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 order dated 05.08.2015 passed by the learned Civil Judge, Senior Division, Paranda, in Land Acquisition Reference No. 760/2011 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.]