

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

WRIT PETITION NO.4133 OF 2022

**RAJARAM MADHAVRAO SHINDE DIED THR LRS RAJUBAI RAJARAM
SHINDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Advocate for Petitioners : Mr. P.C. Mayure h/f. Mr. Suhas R. Shirsat
AGP for Respondents: Mr. S.N. Morampalle
...

CORAM : MANGESH S. PATIL, J.

DATE : 08.06.2022

PER COURT :

Heard the learned advocate for the petitioners as also the learned AGP

2. This is yet another instance where a reference under Section 18 of the Land Acquisition Act, 1894 has been dismissed on the sole ground that the claimants as also the respondents having not turned up. There was no other objective material available to justify the claim being laid for enhanced compensation, the burden to prove which fact was on the petitioners claimants.

3. It is time and again reiterated that being a reference under Section 18 of the Land Acquisition Act a reference court has to decide the reference on merits and same cannot be dismissed unanswered.

4. Apparently predecessor of the petitioners who was original

claimant was extended an opportunity to substantiate the claim for enhanced compensation but he had not turned up. Even the Special Land Acquisition Officer also did not turn up to assist the court in deciding the reference. Faced with the situation, the learned Judge of the reference court apparently had no assistance to decide the reference and dismissed it.

5. The propriety and the reasons apart, in view of the trite legal position that the reference cannot be dismissed and has to be answered, it would be appropriate that the impugned judgment and order is quashed and set aside and the parties are relegated before the reference court for decision of the reference afresh.

6. The Writ Petition is partly allowed. The impugned judgment and order is quashed and set aside. The reference is remanded back for decision afresh. The parties shall appear before the reference court on 02.07.2022 and there shall be no need for the reference court to issue any notice to them. The petitioners shall not be entitled to claim any interest from the date of the decision i.e. 25.11.2019 till date.

(MANGESH S. PATIL, J.)