

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.7707 OF 2022**

Pandurang S/o. Shyamrao Ainule,
Age 68 years, Occu: Agri,
R/o. Borgaon (Nagdarwadi),
Tq. Chakur, Dist. Latur.

..Petitioner

Versus

1. The State of Maharashtra,
Through the Collecotr, Latur.
2. The Special Land Acquisition Officer,
(Swarna Project), Latur, Dist. Latur.
3. The Executive Engineer,
Minor Irrigation Division,
Latur, Dist. Latur.

..Respondents

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Mr. Gajanan K. Sontakke, Advocate for the Petitioner.
Mr. S. N. Morampalle, AGP for Respondents-State.
Mr. S. C. Arora, Advocate for Respondent No.2.

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**CORAM : SANDEEP V. MARNE, J.
DATED : 22nd DECEMBER, 2022.**

ORAL JUDGMENT:-

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the admission stage.

2. Petitioner challenges the judgment and order dated 26.02.2014 passed by the Extra Joint Civil Judge, Senior Division, Latur dismissing the Reference on the ground of failure of petitioner to lead evidence in support of his claim for enhanced compensation.

3. Petitioner first assailed the judgment and order dated 26.02.2014 by filing First Appeal No.31/2018 in the year 2017. By order dated 08.08.2017 the delay in filing the First Appeal was condoned. After realizing that First Appeal is not maintainable against the order of the Reference Court, petitioner withdrew the First Appeal on 30.09.2021 and has thereafter filed the present petition. Thus, the delay in filing the present petition is appropriately explained.

4. In catena of decisions, this Court has repeatedly held that the Reference for enhancement of compensation cannot be rejected without giving an opportunity to claimant to lead evidence. The Reference in this regard can be made to the judgment of this Court in **Walmik Trimbak Tupe Vs. State of Maharashtra and Another; Writ Petition No.12795/2019**, decided on 17.01.2020 and **Vinayak Trimbak Tribhuvan Vs. The State of Maharashtra and Anr.; Writ Petition No.3992/2021**, decided on 03.03.2021. It is, therefore, necessary in the interest of justice that petitioner is granted an opportunity to lead the oral/documentary evidence in support of his claim for enhanced compensation.

5. At the same time, petitioner cannot be permitted to take benefit of his own wrong. Petitioner cannot claim interest on the enhanced amount of compensation, if awarded from the date of dismissal of the LAR till today.

6. Accordingly, Writ Petition is allowed. The judgment and order dated 26.02.2014 passed by the Reference Court is set aside and LAR No.40/2006 is restored on the file of Reference

Court. Petitioner to produce necessary documentary/oral evidence within a period of four months from today. Failure on the part of petitioner to lead such documentary/oral evidence within the stipulated time will result in summary dismissal of the LAR. Petitioner shall not be entitled for the interest on the amount of enhanced compensation, if any, from the date of dismissal of LAR till today.

7. Rule made absolute in above terms.

(SANDEEP V. MARNE)
JUDGE