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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5941 OF 2022

Mohammed Iliyas Mohammed Ibrahim

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....

Mr. Suraj R. Bagal, Advocate for the petitioner

Mr. S. W. Munde, AGP for respondent - State

Mr. M. D. Narwadkar, Advocate for respondent No.3

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 23rd SEPTEMBER, 2022

ORDER :

1. By this petition, filed under Article 226 and 227 of the Constitution of India, the petitioner challenges the judgment and Award dated 12th March, 2019 passed by the learned Civil Judge, Senior Division, Nanded in Land Acquisition Reference No. 207 of 2010 thereby dismissing the reference.

2. The petitioner owned and possessed CTS No. 16641 situated at Tower to Habib Talkies Road. Portion of the said land i.e. 9.25 square meter was acquired by respondent No.3 for the purpose of widening of road. The Special Land Acquisition Officer passed the Award, however, since adequate compensation was not granted, the petitioner filed Land Acquisition Reference No.

207 of 2010 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, learned Assistant Government Pleader for the respondent-State and learned advocate for respondent No.3.

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 "C".
- II. Impugned order dated 12th March, 2019 passed by Civil Judge, Senior Division, Nanded, in Land Acquisition Reference No. 207 of 2010 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**