

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

WRIT PETITION NO.4164 OF 2022

Nivruti Narsoba Lawate (Died)
Through LRS

1A. Prayagbai Nivruti Lawate
Age: 85 years, Occu: Agri & H.H.

1B. Ratanbai Bhim Lavate
Age: 60 years, Occu: Agri & H.H.

Both R/o Khasagiwadi,
Tq. Omerga, Dist. Osmanabad.

... Petitioners
(Orig. Claimants)

Versus

The State of Maharashtra
Through Collector Osmanabad
District Osmanabad

... Respondent

...

Mr. V. V. Ingale, Advocate for the Petitioners
Mr. K. B. Jadhavar, AGP for the Respondent-Sole

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20th September, 2022

ORAL JUDGMENT :-

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

2. This petition filed under Article 226 & 227 of the Constitution of India, impugns the order dated 22.09.2008 passed below Exhibit-17 in Land Acquisition Reference No.396/2004 (Old

No.21/1996), by the learned Civil Judge, Senior Division, Omerga, thereby rejecting the land acquisition reference, as the petitioner failed to adduce evidence.

3. 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.

4. Admittedly, in the present case also the reference is not decided on merits and the same is rejected solely on the ground that the petitioner 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 22.09.2008 passed by the Civil Judge, Senior Division, Omerga, in Land

Acquisition Reference No.396/2004 (Old No.21/1996), 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.]

Sameer