

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

WRIT PETITION NO.4190 OF 2022

Eknath Kisan Indalkar
Age : 56 years, Occ: Agril.,
R/o. Hastepokhari, Tq. Ambad,
District Jalna.

... **PETITIONER**

VERSUS

1] The State of Maharashtra
through the Special Land
Acquisition Officer, E.W.D.,
Jalna, Dist. Jalna.

2] The Executive Engineer
Minor Irrigation Division,
Jalna.

... **RESPONDENTS**

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Advocate for Petitioner : Mr. Dnyaneshwar A. Bide
AGP for Respondent/State : Mr. S.N. Morampalle
Advocate for Respondent : Mr. Sham B. Patil

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CORAM : MANGESH S. PATIL, J.

DATE : 22.07.2022

PER COURT :

Heard the learned advocates for both the sides finally. At the joint request the matter is being disposed of at the stage of admission.

2. The petitioner's reference though stated to have been decided has been dismissed *ex facie* in default, on his failure to lead evidence.

3. It is trite that being the reference under the Land Acquisition Act, a reference court is obliged to decide it on its own merits and cannot dismiss it in default.

4. However, simultaneously, it is to be borne in mind that perhaps the reference court had no other option but to pass the impugned order since the petitioner was not coming forward to lead evidence commensurate with his claim for enhanced compensation.

5. Therefore even though reference court could not have dismissed the reference, even the petitioner is responsible for the situation he is in and is liable to be blamed therefor.

6. Consequently, though the order under challenge is not sustainable, the petitioner cannot be permitted to derive the benefit of his own wrong in the form of monetary benefit which he would otherwise have received had the reference been decided after he had led the evidence.

7. The Writ Petition is partly allowed. The impugned order is quashed and set aside and the reference is remitted back to the reference court for decision afresh in accordance with law. The parties shall appear before the reference court on 17.08.2022. There shall be no need for the reference court to issue any notice to them. The petitioner shall conclude his evidence within two months from the date of his appearance.

8. The petitioner shall not be entitled to claim any monetary benefit under the Land Acquisition Act from the date his reference was dismissed i.e. 04.12.2013, till date.

(MANGESH S. PATIL, J.)