

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 CRA NO.105 OF 2018

KISAN SAMBHAJI HARAL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY, REVENUE
AND FOREST DEPT. MANTRALAYA, MUMBAI AND ORS

...
Advocate for Petitioners : Mr. Shingare Chandrasen A.
AGP for Respondents-State : Mr. S. N. Morampalle

...
CORAM : ARUN R. PEDNEKER, J.
DATE : 14th October, 2022

PER COURT :

1. The present revision application challenges the order passed by the reference Court dated 01/12/2016.
2. Heard learned Advocate for applicants Mr. C. A. Shingare and learned AGP Mr. S. N. Morampalle for respondents-State.
3. The facts leading to the filing of the application are as under :-
Notification under Section 4 (1) of the Land Acquisition Act, 1988 was issued on 10/04/2003 for the purpose of acquisition of petitioners land. The respondent No.3 passed an award for the said land under Section 11 of the 1988 Act on 30/11/2006. The applicant accepted the amount under protest, and thereafter, filed reference under Section 18 of the 1988 Act vide LAR No.85 of 2011. The applicants submit that

they had engaged an Advocate to defend the cause before the reference Court. The applicants further submit that there was a drought like situation in Marathwada Region and particularly in Beed District. Therefore, the applicants primarily shifted to Pune for livelihood and there was no communication between them and their Advocate. Applicants were not in a position or were not instructed by their Advocate to defend the matter by leading evidence before the reference Court. The matter was before the reference Court and was listed for evidence on various occasions. However, the applicants in view of the difficulties enumerated above, were not in a position to take steps to lead evidence in the case. The reference Court by the impugned order, therefore, dismissed the reference appeal for non prosecution and thus the present revision application is filed.

4. Having considered the submission made by the petitioner, especially that the applicants are poor agriculturists who had faced a drought like situation and had moved away from their original place to earn for their livelihood, in the interest of justice an opportunity is given to them to lead evidence before the reference Court. In the circumstances, I hereby set aside the impugned order and remanded

the matter back to the reference Court to be decided on the merits of the case. The proceedings are to be restored to its original position and the applicants be permitted to lead evidence in the matter. As the proceedings are pending from longtime, after the restoration of the proceedings, the proceedings may dispose of as expeditiously as possible, preferably within a period of one year from the date of receipt of this order.

5. The Advocate for the applicants had made a statement on instructions, which was recorded by this Court on 17/08/2018 wherein he had submitted that the petitioners are willing to waive the interest component from 18/06/2013, which was the date for a recording of the oral evidence till the decision of present civil revision application. Accordingly, the interest component from 18/06/2013 till today will not be granted to the applicants on the enhanced compensation in view of the statement of the petitioners.

6. In view of the above, the reference proceedings is restored to its original position.

(ARUN R. PEDNEKER, J.)

vj gawade/-.