

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

WRIT PETITION NO.13977 OF 2021

- 1] Dhondiba s/o Shripati Lokhande
Age: 55 years, Occu.: Agril.
- 2] Shrikant s/o Shripati Lokhande
Age: 50 yrs., Occu.: Agril.
- 3] Walmik s/o Shripati Lokhande
Age: 48 yrs., Occu.: Agril.
- 4] Trimbak Tatya Lokhande
Died, Through his L.Rs.
- 4/1. Yogiraj s/o Trimbak Lokhande
Age: 40 yrs., Occu.: Agril.
- 4/2. Rupabai Parshuram Gaikwad
Age: 38 yrs., Occu.: Agril & Household,
- 4/3. Limbraj s/o. Trimbak Lokhande
Age: 36 yrs., Occu.: Agril.
- 4/4. Shivaji s/o. Trimbak Lokhande
Age: 32 yrs., Occu.: Agril.
- 4/5. Rajkumar s/o. Trimbak Lokhande
Age: 30 yrs., Occu.: Agril.
- 4/6. Maruti s/o Trimbak Lokhande
Age: 28 yrs., Occu.: Agril.
- 4/7. Kesharbai Trimbak Lokhande
Died (Her LRs. already on record)

All R/o. Toramba,
Tq. & Dist. Osmanabad.

..Petitioners

VERSUS

1. The State of Maharashtra
Through – Collector, Osmanabad.
2. The Special Land Acquisition Officer,
Medium Project at Osmanabad.
3. The Executive Engineer,
Lift Irrigation Division, Osmanabad. ..Respondents

...

Advocate for Petitioners : Mr.Pravin B. Rakhunde

AGP for Respondents-State : Mr.S.N.Kendre

...

CORAM : NITIN B. SURYAWANSHI, J.**DATE : 4th July, 2022****ORAL JUDGMENT :-**

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.
2. By this petition, filed under Article 227 of the Constitution of India, the petitioners take exception to the order dated 06.10.2021 passed by the learned 2nd Joint Civil Judge, Senior Division, Osmanabad in L.A.R. No.793 of 2013, thereby rejecting the Land Acquisition Reference as the petitioners failed to adduce evidence.
3. Admittedly, the issue involved in the present writ petition is no more *res integra* in view of the decision of this Court (Coram : V.K. Jadhav, J.) in Writ Petition No.12795 of 2019 and

connected writ petitions. This Court has held that the reference has to be decided on merits. In those matters, the reference Court did not decide the references on merit and rejected the respective references, as the petitioners therein failed to adduce the evidence. This Court 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 petitioners 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 judgment and order passed by the learned 2nd Joint Civil Judge, Senior Division, Osmanabad in L.A.R. No.793 of 2013 is hereby quashed and set aside.
- (III) The matter is relegated back to the reference Court for decision on merits, after giving an opportunity to the respective parties.

- (IV) In case, the reference Court allows the reference filed by the petitioners, the point of interest shall be considered on its own merits without being influenced by this order.
- (V) 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.
- (VI) Rule is made absolute in above terms. No costs.

(NITIN B. SURYAWANSHI)
JUDGE

SPT