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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2264 OF 2023

Kasturabai Pratapsingh Patil (Died) Through LR PETITIONER

VERSUS

The Special Land Acquisition Officer
Upper Tapi Project Hatnoor, Jalgaon and Another RESPONDENTS

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Mr. Vinod Prakash Patil, Advocate for the petitioner

Mr. R. B. Bagul, AGP for respondent - State

Mr. A. D. Pawar, Advocate for respondent No.2.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 13th MARCH, 2023

ORDER :

1. The petitioner is aggrieved by order dated 17th February, 2023 passed by learned Civil Judge, Senior Division, Chalisgaon below Exhibit-51 in LAR No. 153 of 2014.

2. The petitioner is original claimant, who has filed Reference under section 18 of the Land Acquisition Act seeking compensation of Rs.97,955/-. After evidence of the valuer was recorded, the petitioner filed applications Exhibit-42 and Exhibit-43 for adjournment for giving documents and examination of witnesses. But no document was filed on record. Both these applications were allowed subject to payment of costs. The

petitioner failed to pay the cost and to comply with the orders. The petitioner, thereafter filed application for depositing cost, as per order passed below Exhibit-42 and Exhibit-43. When the said application was called out for hearing, none appeared on behalf of the petitioner. On the next date also, none appeared for the petitioner. In spite of that the Reference Court allowed the said application, subject to payment additional cost of Rs.300/-, by way of last chance.

3. Thereafter, by filing application Exhibit-45, the petitioner prayed for issuance of witness summons to the witnesses, which was allowed by the Trial Court in the interest of justice and fair trial. Thereafter, again the petitioner filed Application Exhibit-51 contending that summons were issued to the witnesses, but those could not be served hence he prayed for re-issuance of summons. This application Exhibit-51 is rejected by the Reference Court holding that though the petitioner sought permission of the Court for adducing further evidence on the ground of filing of documents and examination of witnesses, but he has yet not filed documents on record, though it was submitted that the petitioner will file it on the next date. Hence, the Reference Court was of the view that no purpose would be served in examining the witnesses and it appears that the

petitioner wants to delay the trial.

4. The witnesses, which the petitioner seeks to examine, are the *Pancha* witnesses and the *Panchanamas* to which they are witnesses, are already exhibited in the evidence of the valuer. In that view of the matter, no useful purpose would be served by allowing the petitioner to examine *Pancha* witnesses. The Reference Court appears to be right in taking a view that no whereabouts of the witnesses is known and the petitioner is trying to prolong the matter.

5. In the light of the above, there appears no substance in the writ petition. The writ petition is, therefore, dismissed.

6. Considering the fact that the Reference is of the year 2014, hearing of the same is expedited.

[NITIN B. SURYAWANSHI]
JUDGE