

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

WRIT PETITION NO.390 OF 2021

Vishwanath Narsappa Lakade (DIED)
Through L.Rs.

- 1A. Kashinath Vishwanath Lakade
Age: 55 Years, Occ : Agri,
- 1B. Vyankat s/o Vishwanath Lakade
Age : 45 years, Occ: Agri,
Both R/o Naichakur, Tq. Omerga
Dist : Osmanabad

... Petitioners

Versus

- 1) The State of Maharashtra,
Through Collector, Latur
Dist : Latur
- 2) The Special Land Acquisition Officer,
Manjara Project, Osmanabad,
Dist : Osmanabad
- 3) Executive Engineer,
Pathbandare Majbutikaran Division,
Omerga, Dist: Osmanabad
- 4) Gangubai @ Tangabai Karbas Teli
Through Power of Attorney Holder
Vaijinath Karbas Teli
Age 40 Years, Occ: Agri
R/o Nandurga (Deshmukh)
Tq. Ausa, Dist : Latur

Deleted as per Order
dated 02/02/2023

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Mr. Vivekanand V. Ingale, Advocate for Petitioners
Mr. R.B. Bagul, AGP for Respondents – State
Ms. S. D. Shelke, Advocate for Respondent No.3

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20th MARCH, 2023

ORAL JUDGMENT :

1. **RULE.** Rule made returnable forthwith. Heard finally by the consent of the parties.

2. This petition impugns the judgment and order dated 01/10/2016 passed by the learned Joint Civil Judge, Senior Division, Omerga, in Land Acquisition Reference No.241/2010, thereby dismissing 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, reference was 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 dismissed 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 judgment and order dated 01/10/2016 passed by the learned Joint Civil Judge, Senior Division, Omerga, in Land Acquisition Reference No.241/2010, 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.
- (V) Rule is made absolute in above terms. No costs.

(NITIN B. SURYAWANSHI, J.)