

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

WRIT PETITION NO. 5933 OF 2022

Madan Dhansingh Shihare
and another

.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri D. A. Bide, Advocate h/f Shri Tejas C. Sonawane, Advocate
for the Petitioners.

Shri S. N. Morampalle, A.G.P. for the Respondent Nos. 1 to 2.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 28TH FEBRUARY, 2023.

FINAL ORDER :

. The challenge in the petition is to the judgment and award dated 12th March, 2019 passed by the Reference Court in L.A.R. No. 359 of 2008 dismissing the reference.

2. The issue in the present case is *no longer res-integra* and is covered by the decision of this Court dated 06.02.2023 passed in Writ Petition No. 12319 of 2022.

3. As the dismissal of the reference was due to the non prosecution, the judgment and order does not comply with the provisions of Section 26 of the Land Acquisition Act. The decision in the present case cannot be said to be decision on merit as reference is dismissed due to failure on the part of the claimant

to adduce evidence before the Reference Court. It is not disputed that neither of the parties have led any evidence and the reference application has been dismissed for non prosecution. The claimants are not entitled for the interest on the enhanced amount from the date of dismissal of the reference till its final disposal, considering that the claimant did not adduce evidence and LAR proceedings of year 2008 was pending till 2019 due to default on part of claimant.

4. As the issue stands settled, the impugned order dated 12th March, 2019 is hereby quashed and set aside and the following order is passed.

O R D E R

A. A. Judgment and award dated 12th March, 2019 passed in L.A.R. No. 359 of 2008 is hereby quashed and set aside.

B. L.A.R. No. 359 of 2008 is hereby restored to its original position.

C. The petitioner-claimant shall appear before the Reference Court on 27.03.2023.

D. The Reference Court shall permit the petitioner - claimant to lead oral and documentary evidence in support of his contention so also permit the respondent-State or the acquiring body, as the case may be, to lead oral and documentary evidence in support of their rival contentions.

E. The concerned Reference Court shall dispose of the Land Acquisition Reference as expeditiously as possible, preferably within a period of six months from 27th March, 2023.

G. The petitioner - claimant shall not be entitled to any interest on the enhanced amount of compensation, if awarded from the date of dismissal of LAR till the final disposal of the LAR by the Reference Court.

H. The writ petition is allowed in the aforesaid terms.

[SHARMILA U. DESHMUKH, J.]

bsb/Feb. 23