

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

1 WRIT PETITION NO.2380 OF 2023

**YASHWANT VASANT MALI SURYAWANSHI
VERSUS
SUB DIVISIONAL OFFICER TALODA AND ANOTHER**

...

Advocate for the petitioner : Mr. Ishwar K. Wagh h/f.
Mr. More Kumar Gaurav M.
AGP for the Respondent – State : Mrs. G.L. Deshpande

...

AND

2 WRIT PETITION NO.2381 OF 2023

**HIRALAL DAGADU MALI
VERSUS
SUB DIVISIONAL OFFICER TALODA AND ANOTHER**

...

Advocate for the petitioner : Mr. Ishwar K. Wagh h/f.
Mr. More Kumar Gaurav M.
AGP for the Respondent – State : Mr. R.B. Bagul

...

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 24-02-2023

PER COURT :

. Heard.

2. The challenge in the petitions is to the order dated 25.03.2022 passed by the Reference Court under Section 18 of the Land Acquisition Act rejecting the references. The references have been rejected as the claimants had not appeared before the Court for recording of their verification and for the cross-examination.

3. All the references are of the year 2016 and the order of the Reference Court shows that on 15.12.2020 the petitioners - claimants had filed their affidavit in lieu of examination-in-chief and thereafter had not appeared before the Court. It is a matter of general knowledge that during the said period due to, Covid-19 pandemic, various orders have been passed by this Court as well as the Apex Court extending period of limitation as well as directing the Courts not to pass any orders which would cause prejudice to the litigants during that period.

4. On 25.03.2022 the references have been rejected. This Court has already held in **Walmik Trimbak Tupe** (*supra*) and **Uttamrao Madhavrao Yenikar** (*supra*) that the decision of the reference Court is required to be examined as to whether the said decision can be said to be a decision on merits. The order dated 25.03.2022 cannot be said to be a decision on merits. However, it needs to be considered that since 02.10.2021 till the rejection of the reference, no steps have been taken to lead the evidence. The learned counsel for the petitioners agreed to waive the interest for the period from 02.10.2021 till the final disposal of the LARs on merits by the Reference Court.

5. For the aforesaid reasons, the following order is passed.

ORDER

(i) The Award dated 25.03.2022 passed by the Civil Judge Senior Division, Shahada in L.A.R. Nos. 14 of 2016 and 5 of 2016 respectively is hereby quashed and set aside.

(ii) Land Acquisition References are hereby restored to its original position.

(iii) The Reference Court shall permit the petitioners - claimants to lead oral and documentary evidence in support of their contentions 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.

(iv) The petitioners – claimants shall appear before the Reference Court on 27.03.2023.

(v) The concerned Reference Court shall dispose of the Land Acquisition References as expeditiously as possible, preferably within a period of six months from 27.03.2023.

(vi) The petitioners - claimants shall not be entitled to any interest on the enhanced amount of compensation, if awarded since

02.10.2021 till the final disposal of the LARs on merits by the Reference Court.

(vii) The writ petitions are allowed in the aforesaid terms.

(SHARMILA U. DESHMUKH, J.)

GGP