

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7423 OF 2022

PANDURANG NIVRUTTI SANAP & OTHERS
VERSUS
THE STATE OF MAHARASHTRA & ANR.

...
Mr. Rajendra G. Hange, Advocate for the petitioners
Mr. S.N. Morampalle, AGP for the Respondent – State
...

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 20-02-2023

PER COURT :

. By this petition, the order of rejection of the reference being Land Acquisition Reference No.393 of 2014 is under challenge.

2. The learned counsel appearing for the petitioners submits that the judgment dated 16.03.2019 does not constitute an award within the meaning of Section 26 of the Land Acquisition Act. He further submits that the reference has been disposed of for non-prosecution as the claimants could not adduce the evidence. The learned counsel for the petitioners relying upon the decisions of this court in the case of **Walmik s/o. Trimbak Tupe vs. The State of Maharashtra & Anr** with connected writ petitions decided on 17.01.2020 and in the case of **Uttamrao Madhavrao Yenikar vs. The State of Maharashtra**, Writ Petition No.4863 of 2021 decided on

20.07.2022 submits that, this court has observed in the **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. He further submits that the reference cannot be rejected for non-prosecution and has to be decided on merits.

3. Per contra, the learned AGP opposed the petition and submits that there is no explanation provided for the period from 2014 to 2019 when the land reference came to be rejected.

4. Considered the submissions of the learned counsel appearing for the respective parties.

5. The claimant no.2 in L.A.R. No.393 of 2014 died during its pendency and an application came to be filed on 20.06.2016 for bringing his legal heirs on record which was decided on 27.07.2018 i.e. after a period of almost two years. Subsequently, the matter was lost sight by the learned counsel for the claimants. On 14.12.2019, the matter was listed before the Lok Adalat, wherein it came to the notice of the parties that the Land Acquisition Reference has been rejected.

6. 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 16.03.2019 cannot said to be a decision on merits. However, it needs to be considered that since the year 2014 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 09.07.2014 (from the date of institution of the LAR) till the final disposal of the LAR on merits by the reference court.

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

ORDER

(i) The Award dated 16.03.2019 passed by the Jt. Civil Judge Senior Division, Beed in L.A.R. No.393 of 2014 is hereby quashed and set aside.

(ii) Land Acquisition Reference is 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 15.03.2023.

(v) The concerned Reference Court shall dispose of the Land Acquisition Reference as expeditiously as possible, preferably within a period of six months from 15.03.2023.

(vi) The petitioners - claimants shall not be entitled to any interest on the enhanced amount of compensation, if awarded since 09.07.2014 till the final disposal of the LAR on merits by the Reference Court.

(vii) The writ petition is allowed in the aforesaid terms.

(SHARMILA U. DESHMUKH, J.)