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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11892 OF 2022

Radhabai Prabhulal Jaiswal

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....

Mr. Dhananjay A. Mane, Advocate for the petitioner

Mr. P. G. Borade, AGP for respondent - State

Mr. S. V. Deshmukh, Advocate for respondent No.3

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 8th AUGUST, 2023

ORDER :

1. The petitioner is a claimant in LAR No. 307 of 2002. Application Exhibit-40 is filed by the claimant seeking permission to adduce additional evidence, under Order 18 Rule 17A of the Civil Procedure Code. The said application was strongly opposed by respondents No.1 to 3, by filing say. The Reference Court rejected the application holding that the valuation report, which is sought to be placed on record by the claimant by way of amendment, is not mentioned, though the claimant was permitted to amend the claim petition. Therefore, the valuation report sought to be produced by the claimant is afterthought and no justifiable ground is given by the claimant to adduce

additional evidence.

2. Heard learned advocate for the petitioner, learned Assistant Government Pleader for respondents No.1 and 2 and learned advocate for respondent No.3. Perused the memo of writ petition, its annexures and the impugned order.

3. The approach of the learned Judge of the Reference Court is unsustainable, as the claimant is entitled to adduce all the possible evidence available with her to support her claim on merits. Said opportunity cannot be denied to the claimant. The impugned order, therefore, cannot be sustained.

4. In the result, writ petition is allowed. Impugned order dated 18th August, 2022 passed by 3rd Joint Civil Judge, Senior Division, Aurangabad below Exhibit-40 in LAR No. 307 of 2002 is hereby quashed and set aside. Application Exhibit-40 is allowed.

5. The challenge raised by the respondents in respect of proof, relevancy and admissibility of the said evidence is kept open to be adjudicated by the Reference Court at the time of final adjudication of the reference.

[NITIN B. SURYAWANSHI]
JUDGE