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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13573 OF 2023

Bhagwan Ganpat Patil (Since Deceased)

Through Legal Heirs

Tulshiram Bhagwan Patil

... Petitioner

V/s.

The State of Maharashtra Through

Special Land Acquisition Officer & Ors

... Respondents

Mr. Shriram S. Kulkarni, for Petitioner.

Mr. P. P. Pujari, AGP for State-Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 3, 2023

P.C.:

1. By this writ petition under Article 227 of the Constitution of India, the claimant is challenging order dated 7 June 2023, passed by the Reference Court rejecting petitioners application seeking permission to lead additional evidence.

2. It appears that by virtue of Notification under Section 4 of Land Acquisition Act, 1894 on 24 September 1986 the property of petitioners was acquired for New Bombay Project. On 18 September 1989, the award under Section 11 of the Land Acquisition Act, 1894 was passed. The petitioners, therefore, in

the year 1990 made a reference under Section 18 of the Land Acquisition Act, 1894 seeking enhancement of compensation.

3. On 31 March 2022, the petitioners filed affidavit-in-lieu of examination-in-chief. On 16 December 2022, the Reference Court closed petitioner's evidence *vide* order passed below Exhibit 1.

4. On 28 April 2023, the petitioner filed an application for recalling of order dated 4 February 2023 seeking permission to lead evidence.

5. By the impugned order, the Reference Court rejected application below Exhibit 65.

6. On perusal of the record, it appears that the Reference Court has rejected the application on the ground that the valuer of the petitioner to comply with the order dated 8 December 2022. Despite ample opportunities, the petitioner failed to lead his additional evidence.

7. Considering the illness of Advocate at the relevant time and the nature of rights involved in proceedings under Section 18 of the Land Acquisition Act, 1894, the Reference Court ought to have allowed the application filed by the petitioner to lead additional evidence. Hence, following order:

a) The impugned order dated 7 June 2023 below Exhibit 65 in LAR No.525 of 2000 passed by the 2nd Joint Civil Judge, Senior Division, Alibaug is quashed and set aside.

b) The petitioner's application below Exhibit 65 is allowed.

c) The petitioner shall pay costs as per order dated 8 December 2022 within four weeks from today.

8. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)