



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

913 WRIT PETITION NO. 2345 OF 2024

**SUKHDEO RAUBA SORMARE DIED THROUGH HIS LRS
SARJABAI MAHADU GAYKE AND ANOTHER**

VERSUS

**THE STATE OF MAHARASHTRA THROUGH COLLECTOR AND
OTHERS**

...

Advocate for the Petitioner : Mr. D. A. Mane h/f. Mr. Durgesh M. Pingale
AGP for Respondent/State: Ms. K. R. Jamdhade

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 29th FEBRUARY, 2024

PER COURT:

1. Heard.
2. Mr. D. A. Mane holding for Mr. Durgesh M. Pingale, learned counsel for the petitioners submits that the LAR No.2646 of 2010 was dismissed on account of non leading of evidence. He relies upon the Judgment of this court in Writ Petition No.12795 of 2019, dated 17.01.2020 and submits that wherever evidence is not led by the parties this court has remitted the matter back with liberty to lead evidence holding that the reference court has to decide the reference on merits and not to dismiss the same on account of non leading of evidence of the claimants.

3. The learned AGP does not disputes the proposition of law that where the evidence is not led by the parties this court has remitted the matter back as mentioned in the order dated 17.01.2020 in Writ Petition No.12795 of 2019. However, submits that there is a huge delay in approaching this court and the order dated 30.12.2013 is challenged in the present writ petition.

4. In response to the submissions of the leaned AGP, the learned counsel for the petitioners submits that the petitioners would not claim any interest or statutory benefit for the delayed period from the date of the dismissal of the reference i.e. 30.12.2013 till the date of the filing of this petition i.e. 12.01.2024.

5. In view of the submission made, the award of the reference court is set aside and the matter is remitted back to the reference court to decide it in accordance with law. The learned counsel for the petitioners submits that the petitioners would remain present before the reference court, on 20.03.2024 and will lead evidence as per the date given by the reference court. The reference court to decide the reference as expeditiously as possible and in any event within one (01) year from the date of production of this order. In the event, the reference court answers the reference in favour of the claimants, the claimants would not be

entitled for the interest and statutory benefits from 30.12.2013 till 12.01.2024.

6. The writ petition is accordingly disposed of.

[ARUN R. PEDNEKER, J.]

marathe