



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

5. WRIT PETITION NO.1665 OF 2024

Balasaheb s/o.Sadashiv Dhaware,
Age: 64 years, Occ. Agri.,
R/o. Deepe wadgaon, Tq. Kaij,
Dist. Beed.

.. PETITIONER
[Orig.Claimant]

VERSUS

1] The State of Maharashtra,
Through District Collector,
Collector Office, Beed.

2] The Executive Engineer,
M.I.[EGS], Beed/Z.P.Division,
Beed, Tq. & Dist. Beed.

.. RESPONDENTS
Orig. Respondents

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Mr.U.B.Deshmukh, Advocate holding for Mr.R.B.Dhaware,
Advocate for the petitioner.

Mr.V.M.Chate, AGP for the respondent-State

Mr.P.D.Suryawanshi, Advocate for respondent no.2.

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AND

6. WRIT PETITION NO.1666 OF 2024

1] Ankush s/o. Jalindar Tambure,
Age; 37 years, Occ. Agri.

2] Nagnath s/o. Jalindar Tambur
Age: 35 years, Occ. Agri.

Both R/o. Deepewadgaon, Tq. Kaij,
Dist. Beed.

.. PETITIONER
[Orig.Claimant]

VERSUS

- 1] The State of Maharashtra,
Through District Collector,
Collector Office, Beed.
- 2] The Executive Engineer,
M.I.[EGS], Beed/Z.P.Division,
Beed, Tq. & Dist. Beed.

.. RESPONDENTS

Orig. Respondents

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Mr.U.B.Deshmukh, Advocate holding for Mr.R.B.Dhaware,
Advocate for the petitioner.

Mr.V.M.Chate, AGP for the respondent-State

Mr.P.D.Suryawanshi, Advocate for respondent no.2.

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CORAM : ARUN R. PEDNEKER, J.**DATE : 12.02.2024****ORAL JUDGMENT :**

1] Rule. Rule made returnable forthwith. By consent, heard finally.

2] Heard the learned Advocates appearing on behalf of the respective parties.

3] The learned Advocate for the petitioners submits that the Reference Court dismissed the reference on account of the fact that the petitioners failed to lead evidence before the Reference Court. The learned Advocate for the petitioners submits that the reference application

was filed before the Collector and the matter was referred to the Reference Court. However, the petitioners were not aware of the further proceedings, and as such, no steps were taken by them to lead evidence before the Reference Court. He relies upon the Judgment of this Court in **Writ Petition No.12795 of 2019 (Walmik s/o. Trimbak Tupe Vs. The State of Maharashtra and Anr.)** and other connected matters dated 17/01/2020, and submits that the Reference Court should decide the Reference Application on merits and not by taking into consideration the evidence available before the Special Land Acquisition Officer. He further submits that in identical fact situation, in **Writ Petition No. 210/2024 (Sanjay s/o. Ashok Mitkari Vs. The State of Maharashtra & Ors.)** and other connected matter, this Court by judgment and order dated 9.1.2024, has remanded matter for leading evidence before the Reference Court.

4] The learned AGP has not seriously disputed the legal proposition canvassed, however, submits that there is a huge delay in filing the writ petition and that on account of delay the petition be dismissed or a conditional order be passed.

5] In view of the submission canvassed by the learned AGP, the learned Advocate appearing for the petitioners submits that the petitioners would not claim the interest or statutory benefits for the delay period from the

date of the Reference Court order till date of filing of the writ petition.

6] In view of the submissions made, the award passed by the Reference Court is set aside and the matters are remitted back to the Reference Court for deciding the Reference on merits.

7] The petitioners are permitted to lead evidence before the Reference Court.

8] The learned Advocate for the petitioners submits that he would appear before the Reference Court on 05.03.2024 and that he would also tender his evidence before the Reference Court on the date given by the Reference Court.

9] The Reference Court to decide the Reference expeditiously. However, it is made clear that in the event the Reference is answered in favour of the petitioners, the petitioners would not be entitled for interest or statutory benefits for the delay period from the date of the impugned order of the Reference Court till the date of the filing of the present writ petitions.

10] In view of the above, both the writ petitions are allowed.

11] Rule made absolute in above terms.

[ARUN R. PEDNEKER]
JUDGE

DDC