



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

908 WRIT PETITION NO. 4611 OF 2024

**SALAR BASHA KARBHARI
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER**

...
Advocate for the petitioner : Adv.D.A.Bhide
AGP for Respondent-State : Adv.K.B.Jadhavar
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 03.05.2024

P.C. :

1] By way of present writ petition, the petitioner is challenging the impugned judgment and order dated 23.01.2024 passed by the learned Civil Judge Senior Division, Omerga, Dist. Osmanabad in LAR No. 216/2022.

2] While deciding the aforesaid LAR, by order dated 23.01.2024 the Reference Court at para no.13 has held as under :

13) These issues are inter related, therefore taken for discussion simultaneously. The claimant in support of his claim has not lead any oral or documentary evidence. The Award and E-statement are not on record.

3] The learned counsel for the petitioner relies upon the order passed by this Court in Writ Petition No.7710 of 2023 wherein this Court at para 4 has observed as under :

4. The learned counsel for the petitioners/claimants relied upon the judgment and order dated 9.1.2024 passed by this Court in Writ Petition No.210/2024 (Sanjay s/o.Ashok Mitkari Vs. The State of Maharashtra & Ors.), in which this Court relying upon the judgment and order dated 17/01/2020 in Writ Petition No.12795 of 2019 (Walmik s/o. Trimbak Tupe Vs. The State of Maharashtra and Anr.) and other connected matters, has held that the Reference Court should decide the reference on merits and opportunity has to be granted to the claimants to lead their evidence.

4] The learned AGP has not seriously disputed the legal position as this Court has consistently remanded the matters which are dismissed without considering the oral or documentary evidence on record.

5] In view of the same, impugned judgment and order dated 23.01.2024 passed by the learned Civil Judge Senior Division, Omerga, Dist. Osmanabad in LAR No. 216/2022 is set aside and the matter is remanded back to the Reference Court for deciding it afresh. The petitioner is at liberty to lead evidence before the Reference Court.

6] The learned counsel for the petitioner submits that the petitioner would appear before the Reference Court on 21.06.2024 and that he would also tender his evidence before the Reference Court on the date given by the Reference Court.

7] The Reference Court to decide the Reference as expeditiously as possible, preferably within a period of 12 months from the date of production of this order.

8] In view of the above, the present Writ Petition is disposed of.

[ARUN R. PEDNEKER]
JUDGE

DDC