



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

WRIT PETITION NO. 12086 OF 2023

Raosaheb Dharma Waghmare And Others

VERSUS

The State Of Maharashtra Through The Collector And Another

Mr. D. A. Bide, Advocate for petitioner

Mr. S. V. Hange, AGP for respondents/State

Mr. S. R. Shirsat, Advocate for respondent No.2

CORAM : R. M. JOSHI, J.

DATE : 26th NOVEMBER, 2024

PER COURT :-

1. This petition takes exception to the order dated 09.02.2023 passed in L.A.R No. 501 of 2016 whereby the learned Reference Court has refused to frame additional issue pursuant to the amendment to the reference.

2. Learned counsel for the petitioner submits that the learned reference Court by passing order dated 25.10.2021 has allowed the amendment to the statement of claim filed before the Court permitting the petitioner to incorporate claim with regard to the rental compensation due and payable to the petitioner. It is his submission that once such amendment is allowed to the pleadings, the Court is obliged to frame issues in this regard. It is his submission that the Court cannot go into the question as to the entitlement of the petitioner for the said relief at this stage.

3. Learned AGP and learned counsel for the respondent No. 2

supported the impugned order by claiming that the possession of land with regard to the entitlement of the rental compensation is fairly settled to say that the said compensation can be claimed only by filing writ petition and not in a reference under Section 18 of Land Acquisition Act.

4. There is no dispute about the fact that the petitioner was allowed to amend statement of claim by incorporating his claim for rental compensation. Once such pleading is allowed to be incorporated, it becomes incumbent on the part of the reference Court to frame issues in that regard being part of pleadings and disputed issue in the proceeding. It is immaterial as to whether the petitioner would be entitled or not to receive the said rental compensation in the proceeding. The impugned order therefore, cannot sustain and hence set aside. Resultantly, application Exh.38 filed in L.A.R No. 501/2016 stands allowed. Trial Court to frame issues as sought by the petitioner/claimants.

5. It is however clarified that more framing of the issues would not be construed as jurisdiction to the reference Court to grant rental compensation. All objections/contentions of both sides are specifically kept open.

6. Since reference is pending for last about 8 years, the same is directed to be decided expeditiously and in any case within a period of six months from today.

(R. M. JOSHI, J.)

bsj