



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

973 WRIT PETITION NO. 10193 OF 2023

RAMAJAN AJIJ MUSALMAN DEAD HIS LRS SK. MOHD. SK.
RAMJAN DEAD LRS ABID MOHAMMAD SHAIKH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS DISTRICT COLLECTOR JALGAON AND OTHERS

...
Advocate for the Petitioner : Mr. Vijay Bhalerao Patil
AGP for Respondent/State: Ms. P. R. Bharaswadkar
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 23rd FEBRUARY, 2024

PER COURT:

1. Heard.
2. The petitioners are challenging the order passed by the reference court while deciding the claim of the claimants - applicants under section 28(3) of the Land Acquisition Act. The claim is rejected on the ground that the claimants failed to adduce evidence against which the present appeal is filed. The learned counsel relies upon the Judgment of this court dated 14.07.2022 in Writ Petition No.1528 of 2021, where this court has set aside the order passed by the reference court on the ground of not leading of evidence and remitted the matter back permitting the claimant to lead evidence. This court in its earlier Judgment has held that the reference court has to decide the reference on

merits and cannot reject the same solely on the ground that the claimant failed to lead evidence.

3. Ms. P. R. Bharaswadkar, learned AGP submits that there is a huge delay in filing the appeal challenging the reference court award.

4. In pursuance thereto, Mr. Vijay Bhalerao Patil, learned counsel appearing for the petitioners submits that the petitioners would not claim interest or statutory benefit for the delayed period from the date of the reference court award till the date of the filing of the writ petition.

5. The impugned order of the reference court dated 31.08.2018 is set aside and the matter is remitted back to the reference court. The reference court is directed to decide the reference after consideration of the evidence that would be filed by the claimants. The claimants submits that he would file evidence. On restoration and production of order of this court, reference court to decide the remanded proceedings expeditiously and in any way within a period of one (01) year. However, in the event that the claimants succeed before the reference court they would not be entitled for the interest or statutory benefit for the delayed period from the date of the impugned award of the reference court dated

31.08.2018 till the date of the filing of the present writ petition i.e. 17.01.2023.

6. In view of the same, the impugned award passed by the reference court is set aside and the matter is remitted back to the reference court to decide in accordance with law.

7. The writ petition stands accordingly disposed of.

[ARUN R. PEDNEKER, J.]

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