



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

63. WRIT PETITION NO.723 of 2022

Subhabai w/o.Venunath Mahamuni,
Deceased through her L.Rs.

- 1] Gunderao s/o. Venunath Mahamuni
- 2] Kumar s/o. Venunath Mahamuni
- 3] Kantabai w/o. Shrihari Potdar
- 4] Smt.Ujwala Balaji Mahamuni .. PETITIONERS

VERSUS

- 1] The State of Maharashtra
- 2] The Special Land Acquisition Officer,
Manjara Project, Osmanabad
- 3] The Executive Engineer,
Minor Irrigation, Osmanabad. .. RESPONDENTS

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Mr.P.V.Ambade, Advocate for the petitioners.
Ms.P.R.Bharaswadkar, AGP for the respondent-State

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CORAM : ARUN R. PEDNEKER, J.

DATE : 02.01.2024

P.C. :

- 1] Heard the learned counsel for the parties.
- 2] By order dated 08.08.2012 in LAR No.1153 of
2009, the Reference Court at para no.17 has observed as
under :

“17. In order to adjudicate the real controversy in question the Court has to scrutinize the award while adjudicating upon the grievance put forth by the claimant. The claimant though challenge the award, but failed to produce on record copy of Award and sale instances as well as E statement to compare the market value. The claimant except by filing reference petition and allegation therein, he failed to produce on record any iota of evidence to weigh his grievance and in absence of the same, I hold that claimant has totally failed to prove his claim that the S.L.A.O. who has awarded the compensation was unjust, unfair and inadequate, as the claimant failed to substantiate his claim and further hold that the market value, which was awarded by the S.L.A.O. was proper and just at the time of notification under Section 4 of the Act. Therefore, claimant is not entitled to claim any enhanced compensation as prayed by him, accordingly, I answered issue Nos. 1,4 and 5 in the negative and proceed to pass the following order.

ORDER

- 1. Reference is hereby dismissed.*
 - 2. There will no order as to costs.*
 - 3. Award be prepared accordingly.*
- (Dictated and pronounced in the open Court)”*

3] The learned counsel for the petitioners submits that the original claimant had expired on 08.04.2010 and her legal heirs were not aware about pendency of the reference petition before the Reference Court, as such, no evidence was led before the Reference Court to adjudicate the reference. The legal heirs of the claimant has filed

present Writ Petition and along with the Writ Petition, death certificate of claimant is also annexed. The learned counsel further submits that since the original claimant had expired, the petitioners being not aware of the reference proceedings and thus could not conduct the proceedings before the Reference Court. The learned counsel for the petitioners further submits that the petitioners would not claim any interest or statutory benefits for the delayed period from the date of judgment of the Reference Court till the date of filing of the present Writ Petition i.e. from 08.08.2012 to December, 2021. The learned counsel for the petitioners further submits that considering the above facts, the order dated 08.08.2012 passed by the Civil Judge [S.D.], Omerga in LAR No.1153 of 2009 [Old No.115/2007] may be quashed and set aside and the matter may be remanded back for fresh adjudication.

4] Since the original claimant had expired during the pendency of proceedings before the Reference Court before leading evidence, the order dated 08.08.2012 passed

by the Civil Judge [S.D.], Omerga in LAR No.1153 of 2009 [Old No.115/2007] is quashed and set aside subject to the condition that the petitioners would not claim interest or statutory benefits for the period of 08.08.2012 to December, 2021. The matter is remanded back for fresh adjudication. The present petitioners are permitted to lead the evidence before the Reference Court. After remand, the Reference Court to decide the reference petition within a period of 6 [six] months from the date of production of certified copy of order of this Court.

5] The parties to appear before the Reference Court within two weeks.

6] Writ Petition is disposed of accordingly.

[ARUN R. PEDNEKER]
JUDGE

DDC