



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

927 WRIT PETITION NO. 520 OF 2024

1. Shankar Ganpati Suryawanshi (Died)
Through LRS
- 1A. Mohan Shankar Suryawanshi,
Age: 45 Years, Occ: Agri,
R/o. Kolsur, Tq. Omerga, Dist.: Osmanabad
- 1B. Vaijanath Shankar Suryawanshi,
Age: 43 Years, Occ.: Agri,
R/o. As above
- 1C. Kantabai Hanmant Parse,
Age: 55 Years, Occ.: Agri & H.H.,
R/o. Kasti, Tq. Lohara, Dist.: Osmanabad
- 1D. Chayabai Tulshiram Bansode,
Age: 50 Years, Occ: Agri & H. H.,
R/o. Yanegur, Tq. Omerga,
Dist. Osmanabad
- 1E. Shanta @ Shalubai Babruwan Bansode,
Age: 48 Years, Occu: Agri & H. H.,
R/o. Kolsur, Tq. Omerga, Dist.: Osmanabad
- 1F. Chanchila @ Chanchala Vishnu Gadhav
Age: 46 Years, Occu.: Agri & H.H.
R/o. Chorakheli, Tq. & Dist. Osmanabad
- 1G. Ideakabai Shankar Suryawanshi,
Age: 40 Years, Occu.: Agri & H.H.,
R/o. Kolsur, Tq. Omerga & Dist. Osmanabad
- 1H. Gayabai Shankar Suryawanshi,
Age: 75 Years, Occ: Agri & H.H.,
R/o. As above

**.. Petitioners
(Ori. Claimants)**

Versus

1. The State of Maharashtra,
Through, Collector Osmanabad,
Dist. Osmanabad
2. The Special Land Acquisition Officer,
Manjara Project, Osmanabad
3. The Executive Engineer,
Medicum Project, Osmanabad
Division, Osmanabad

.. Respondents

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Advocate for the Petitioner :

Mr. P. B. Rakhunde h/f. Mr. Ingale Vivekanand V.
AGP for Respondent/State: Mrs. K. R. Jamdhade

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CORAM : ARUN R. PEDNEKER, J.

DATE : 16th JANUARY, 2024

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. By consent, heard finally.
2. Heard the learned counsel appearing on behalf of the respective parties.
3. The learned counsel for the petitioners submits that the Reference Court by the impugned order dated 28.01.2008, dismissed the reference on account of the fact that the petitioners failed to lead evidence before the Reference Court. The learned counsel 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. The learned counsel relies upon the Judgment of this Court in Writ Petition No.12795 of 2019 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. The learned counsel further submits that in identical fact situation, this Court 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 counsel appearing for the petitioners submits that the petitioners would not claim the interest or statutory benefits for the delayed 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 impugned award passed by the Reference Court is set aside and the matter is 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 counsel for the petitioners submits that the petitioners would appear before the Reference Court on 05.02.2024 and that the petitioners would also tender their 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 delayed period from the date of the impugned order till the date of the filing of the present writ petition.

10. In view of the above, the writ petition is allowed.

Rule made absolute in above terms.

[ARUN R. PEDNEKER, J.]