



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

921 WRIT PETITION NO. 210 OF 2024

Sanjay s/o Ashok Mitkari,
Age 43 years, Occupation Agri.,
R/o Dalimb Ta. Omerga,
Dist. Osmanabad.

...Petitioner

VERSUS

1. The State of Maharashtra,
Through the Collector,
Osmanabad.
2. The Executive Engineer,
Medium Project, Division
Osmanabad.

...Respondents

...

Advocate for the Petitioner : Mr. Murge Estling S.
AGP for Respondents-State : Smt. K. R. Jamdhade

...

AND

922 WRIT PETITION NO. 238 OF 2024

Ashok s/o Vishwanath Mtikari,
Age 65 years, Occupation Agri.,
R/o Dalimb Tq. Omerga,
Dist. Osmanabad.

...Petitioner

VERSUS

1. The State of Maharashtra,
Through the Collector,
Osmanabad.
2. The Executive Engineer,
Medium Project, Division

Osmanabad.

...Respondents

...
Advocate for the Petitioner : Mr. Murge Estling S.
AGP for Respondents-State :Smt. P. R. Bharaswadkar
....

CORAM : ARUN R. PEDNEKER, J.

Dated : January 09, 2024

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. By consent, heard finally.
2. Heard the learned Advocate appearing on behalf of the respective parties.
3. The learned Advocate for the petitioners submits that the Reference Court dismissed the reference on account of the fact that the petitioners failed to lead evidence before the Reference Court. The learned Advocate for the petitioners submits that the reference application was filed before the Collector and the matter was referred to the Reference Court. However, the petitioner was not aware of the further proceedings, and as such, no steps were taken by him to lead evidence before the Reference Court. He 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. He 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 Advocate appearing for the petitioner submits that the petitioners would not claim the interest or statutory benefits for the delay 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 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 Advocate for the petitioners submits that he would appear before the Reference Court on 05/02/2024 and that he would also tender his 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 petitioner, the petitioner would not be entitled for interest or statutory benefits for the delay 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, both the writ petitions are allowed.

Rule made absolute in above terms.

(ARUN R. PEDNEKER, J.)

vj gawade/-.