



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 6338 of 2023

Maroti S/o. Kaduji Dawand
Aged about 70 years,
Occupation : Labour,
R/o. Village Morgavhan,
Tahsil : Risod, District Washim.

.... Petitioner

VERSUS

(1) State of Maharashtra
Through the District Collector,
Washim, District : Washim.

(2) Executive Engineer,
Minor Irrigation Department,
District : Washim.

.... Respondents

Mr. V. B. Gawali, Advocate for the petitioner
Mr. S. B. Bissa, A.G.P. for respondent no. 1
Ms. A. S. Athalye, Advocate for respondent no. 2

CORAM : ANIL L. PANSARE J.

DATED : 18-07-2024

ORAL JUDGMENT

Rule. Rule made returnable forthwith. Heard finally with consent of learned counsel appearing for the parties.

2. The reference Court, under the Land Acquisition Act, has dismissed the reference on the ground that the claimant failed to lead evidence. The judgment impugned indicates that the reference was

pending evidence for the period from 16-6-2015 to 24-10-2016. The claimant did not lead oral or documentary evidence. On 16-11-2016, the claimant sought time to lead evidence by filing application, which came to be rejected. Accordingly, reference Court passed order below Exhibit 1 to the effect that the claimant's evidence stands closed.

3. Learned counsel for the petitioner submits that though there occurred some lapse on the part of claimant in not adducing evidence in time, the fact remains that he sought time to lead evidence. He has invited my attention to the judgment passed by this Court at Aurangabad Bench in *Writ Petition No. 13332/2022 (Chandaba w/o Gangaram Pauyed Vs. The State of Maharashtra through Collector, Nanded and ors.) and other writ petitions dated 2-2-2023* wherein this Court, by referring to various judgments, has held that the dismissal of the reference on the ground of non-adducing of documentary or oral evidence by the claimant cannot be said to be an award on merits. Accordingly, the reference was remitted back to the reference Court with a rider that the claimants will not be entitled to any interest on the enhanced amount of compensation, if awarded from the date of dismissal of reference till final disposal.

4. I do not find any reason to take a different view in the matter rather I am bound by the judgment passed by the coordinate Bench.

5. Resultantly, writ petition is partly allowed.
6. Impugned judgment and order dated 25-4-2017 passed in Reference No. 81/2014 by the Civil Judge Senior Division, Washim is quashed and set aside.
7. Reference No. 81/2014 is remitted back and restored on the file of Civil Judge Senior Division, Washim for decision afresh.
8. The petitioner - claimant shall not be entitled to any interest on the enhanced amount of compensation, if awarded from the date of dismissal of reference i.e. from 25-4-2017 till the final disposal of the reference.
9. The reference Court shall, subject to its docket, decide the reference as expeditiously as possible.
10. The parties shall appear before the reference Court on 12-8-2024.
11. Rule is made absolute in above terms.

(Anil L. Pansare, J.)

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