



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1021 WRIT PETITION NO. 6245 OF 2022

NAGARBAI KASHINATH MANE DECEASED THROUGH L.RS. BABRUWAN
KASHINATH MANE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Pradeep V. Ambade – Advocate for Petitioners

Mr. V.S. Badakh – AGP for Respondent Nos.1 and 2, State

Mr. Gulab B. Rajale – Advocate for Respondent No.3

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 03.12.2025

PER COURT :

1. Heard learned Counsel for the respective parties.
2. The petitioner challenges the judgment and award dated 06.08.2014 passed below Exh.37 by learned Joint Civil Judge (S.D.) Omerga, in L.A.R. No.167/2005 (Old No.658/1997), whereby the reference was dismissed.
3. Learned Counsel for the petitioner submits that, the learned Reference Court dismissed the reference on the ground that the claimants failed to lead evidence and that no material was placed on record to decide the matter on merits.
4. Learned A.G.P. appearing for respondent Nos.1 and 2 and learned

Counsel for respondent No.3 support the order.

5. The learned Reference Court while dismissing the reference, has recorded the reasons in paragraphs 8 and 9, which reads as under :

“8. Being there is no evidence lead by the claimants and there is no material to discuss each issue separately those are discussed here together.

9. To support their claim none of the claimants appeared before this court to submit for cross since 09.01.2014. The expert too failed to submit for cross. The issues are framed below exh.10 on dated 15.12.2000. The documentary evidence i.e. award, e-statement and the valuation report of the expert are produced on record, however failure of claimant to subject for cross spoil the evidence of claimants. Thus, nothing contrary to the valuation made by the LAO and as reflected in the award is put up before this court by the claimant. Thus, being no interest is shown by the claimants this court is constrained to give finding on the issues supra as such.”

6. Thus, it reveals that the reference was not decided on merits. Since the issue pertains to acquisition of land belonging to an agriculturist, in the interest of justice and to afford one more opportunity, the matter deserves to be remanded by setting aside the impugned order.

7. In view thereof, the Writ Petition is partly allowed. The judgment and award dated 06.08.2014 passed below Exh.37 by learned Joint Civil Judge (S.D.) Omerga, in L.A.R. No.167/2005 (Old No.658/1997) is

quashed and set aside.

8. The matter is remanded to the Reference Court to decide it afresh.
9. The petitioner is permitted to lead the evidence in support of the claim. Since the reference was dismissed without recording evidence on 06.08.2014, the claimants shall not be entitled to claim interest on the enhanced amount for the period from 06.08.2014 till today.
10. Pending civil applications, if any, also stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE

Pooja Kale/