



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

WRIT PETITION NO. 8899 OF 2023

**LAXMAN TRIMBAK MOHITE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS**

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Advocate for the Petitioners : Mr. Rodge Suresh N.
Addl. GP for Respondent : Mr. A.S. Shinde

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CORAM : SHAILESH P. BRAHME, J.

DATE : 18th FEBRUARY 2025

PER COURT :

. Heard both the sides.

2. The petitioners are taking exception to the judgment and award dated 30.11.2011 passed by learned 2nd Joint Civil Judge, Senior Division, Aurangabad in L.A.R. No.100/2004, thereby dismissing the reference in the absence of the petitioners.

3. Petitioners are the claimants whose land was acquired and award was passed on 30.01.1990. Being aggrieved, they preferred L.A.R. No.100/2004. Petitioners did not adduce any oral or documentary evidence before the Reference Court. They did not punctually prosecute the reference and in their absence, reference was dismissed by the impugned judgment and award.

4. Learned Counsel for the petitioners is relying on the judgment dated 17.01.2020 passed by the coordinate bench in the matter of Walmik Trimbak Tupe Vs. State and Another in Writ Petition No.1279/2019 and the connected matters. He would pray to pass similar order in the present petition.

5. Learned AGP Mr. Shinde vehemently opposes the submission of the petitioners. He would submit that petitioners are the fence sitters. After the impugned judgment and award, there is inordinate delay for them to file the writ petition in High Court. There is no convincing and plausible explanation for the inordinate delay. Learned Reference Court has rightly rejected the reference on merit. He would therefore pray to dismiss the petition.

6. The petitioners did not adduce evidence when their reference was pending. They failed to prosecute it diligently. Even after, dismissal of the reference, they did not approach this Court in time. Present petition is filed on 17.10.2020. The huge delay in approaching this Court is attributable to the petitioners. However the petitioner wants to lead evidence and prosecute the matter on merits. As it is the matter of acquisition of the land, I deem it appropriate to grant one opportunity. Besides that, I propose to follow the same reasons and the course as done by the coordinate bench in the matter of Walmik Trimbak Tupe (supra).

7. Learned Counsel for the petitioners, on instructions, submits

that his clients are ready to forego interest from 30.11.2011 till 17.10.2022. This statement can be accepted for relegating the parties to the Reference Court. I, therefore, pass following order :

ORDER

- (i) The judgment and award dated 30.11.2011 passed by the 2nd Civil Judge, Senior Division, Aurangabad in L.A.R. No.100/2004 is quashed and set aside.
- (ii) The parties are relegated to the Reference Court by restoring L.A.R. No.100/2004 to its original position. Petitioners shall appear before the Reference Court on 20.03.2025.
- (iii) The concerned Reference Court shall permit the parties to lead oral and documentary evidence in support of their rival contentions.
- (iv) The Reference Court shall dispose of Land Acquisition Reference as expeditiously as possible and preferable within period of six months from 20.03.2025.
- (v) The petitioners shall cooperate for expeditious disposal of the Reference Petition.
- (vi) Writ Petition is allowed in the above terms.

SHAILESH P. BRAHME
JUDGE