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

WRIT PETITION NO. 200 OF 2025

(Bhagwant Tulshiram Bijwe (dead) through LRs Vs. The State of Maharashtra & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. P.P. Sarise with Mr. Vicky Gokhale, Counsel for the
petitioners.
Mr. K.R. Lule, A.G.P. for the respondents/State.

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CORAM : ANIL L. PANSARE, J.
APRIL 15, 2025

Heard.

2] It appears that the Reference filed under
Section 18 of the Land Acquisition Act, 1894 (for short
“Act of 1894”), has been dismissed for want of
prosecution. The order reads as under :

*“The appellant and advocate absent when
called out. No application and No cause has
been shown. Hence, award is confirmed on
failure to lead evidence.”*

3] The Co-ordinate Bench of this Court in
*Chandaba w/o Gangaram Pauyed Vs. State of
Maharashtra and others [2023(4) Mh.L.J. 292]*, by
referring to various judgments, has held that 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] The Hon'ble Supreme Court in the case of *Khazan Singh (Dead) By Lrs Vs. Union of India [(2002) 2 SCC 242]*, in paragraph 7, has held that the provisions above subsumed would thus make it clear that the civil court has to pass an award in answer to the reference made by the Collector under Section 18 of the Act of 1894. If any party to whom notice has been served by the civil court did not participate in the inquiry it would only be at his risk because an award would be passed perhaps to the detriment of the party concerned. But non-participation of any party would not confer jurisdiction on the civil court to dismiss the reference for default.

5] That being so, since the order is apparently contrary to the settled principles of law and since the land of the petitioners has been compulsorily acquired, in my view, the petitioners should be afforded an opportunity with a condition that for the intervening period, they will not be entitled for interest. Hence, following order :

ORDER

I] The petition is allowed.

II] Order dated 11/6/2002 passed by the Civil Judge Senior Division, Achalpur, in L.A.C. No. 19/1995, is quashed and set aside.

III] L.A.C. No. 19/1995 is restored on the file of the Civil Judge Senior Division, Achalpur, for decision afresh in accordance with law with a rider that the

petitioners will not be entitled for interest, including interest on statutory benefits, from the date of dismissal of suit till filing of petition.

IV] The petitioners shall appear before the trial Court on 7/5/2025.

6] The petition is disposed of in above terms.
No costs.

(ANIL L. PANSARE, J.)

Sumit