1IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 92 OF 2015

Sudhakar Yadav Gunjal .. Petitioner
Versus
The State of Maharashtra through
Collector, Ahmednagar and others .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 98 OF 2015

Dattatraya Bansi Gunjal .. Petitioner
Versus
The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 102 OF 2015

Indrabhan Hari Gunjal .. Petitioner
Versus
The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 103 OF 2015

Siddharth Nanasaheb Gunjal minor
through guardian father Nanasaheb
Gunjal .. Petitioner
Versus
The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 104 OF 2015

Babasaheb Yadav Gunjal through
GPA Sudhakar Yadav Gunjal .. Petitioner
Versus
The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 105 OF 2015

Gayabai Sahebrao Gunjal through
GPA Sahebrao Rambhau Gunjal .. Petitioner
Versus
The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 107 OF 2015

Deoram Murlidhar Dighe and ors
through GPA Navnath Deoram Dighe .. Petitioner
Versus
The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 108 OF 2015

Bhausaheb Eknath Gunjal .. Petitioner
Versus
The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

WITH
CIVIL REVISION APPLICATION NO. 109 OF 2015

Hirabai Indrabhan Gunjal through
GPA Indrabhan Hari Gunjal .. Petitioner

Versus

The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

WITH

CIVIL REVISION APPLICATION NO. 110 OF 2015

Satyabhamabai Shrirang Gunjal .. Petitioner

Versus

The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

WITH

CIVIL REVISION APPLICATION NO. 112 OF 2015

Pratik Macchandra Gunjal and another .. Petitioners

Versus

The State of Maharashtra through
Collector Ahmednagar and others .. Respondents

Shri Mukul S. Kulkarni, Advocate for Petitioners in all matters.
Shri S. M. Jadhav, A.G.P. for Respondent Nos. 1 and 2 in all matters.
Shri S. T. Shelke, Advocate for the Respondent No. 3 in all matters.

CORAM : S. V. GANGAPURWALA, J.
DATE : 07TH SEPTEMBER, 2015.

PER COURT :

. All these revisions are filed against the order passed by the Reference Court rejecting the references filed by present petitioners/claimants U/Sec. 18 of the Land Acquisition Act (for short "L.A. Act")

2. Mr. Kulkarni, the learned counsel for petitioners submits that, the petitioners had filed examination in chief. Thereafter, the matters were referred to the Lok Adalat in December 2013/January 2014. The matters could not be settled in the Lok Adalat and subsequently were referred back to the Reference Court. In between 20th April, 2014 and 28th April, 2014 the dates were kept. The advocate for petitioners could not notice the said dates, as such, no evidence order was passed against the claimants and within three days, the respondents led the evidence. On the same day no cross order was passed and directly judgment is pronounced on the next day. The learned counsel submits that, there is procedural irregularity. The learned counsel further submits that, the lands of the claimants are acquired vide the same notification and in some of the references which were filed for acquisition of lands for the same project, the Reference Court has granted enhanced compensation amount and in some of the matters acquiring body had entered into settlement with the claimants, even without filing the references. The learned counsel submits that, the petitioners be given one more opportunity to prosecute references on merits.

3. Mr. Shelke, the learned counsel for the respondent No. 3/acquiring body submits that, ample opportunity was given by the Reference Court, but it was negligence on the part of petitioners. For availing the said opportunity no comparable sell instances were filed by petitioners. No documentary evidence

was filed, nor they offered themselves for cross examination. Even the petitioners did not cross examine the witness of the present respondent. The learned counsel submits that, the present revisions are not maintainable and the petitioners are required to file appeals as required under the provisions of Sec. 54 of the L. A. Act. The said Act is complete Code in itself. The learned counsel relies on the following judgments of the Apex Court.

I. Laxmi Chand and others Vs. Gram Panchayat, Kararia and others reported in AIR 1996 SC 523.
II. State of Rajasthan and others Vs. Raj Singh and another reported in AIR 1996 SC 2812.
III. Westarly Dkhar and others Vs. Sehekaya Lyngdoh reported in (2015) 4 SCC 292.
IV. Gurcharan Singh Vs. Surjit Singh (Dead) through L.Rs. reported in (2014) 2 SCC 140.

4. The learned Assistant Government Pleader also supports the arguments canvassed by Mr. Shelke, the learned counsel.

5. With the assistance of learned counsel I have considered the submissions. There cannot be any dispute with the proposition that against a judgment and award passed by the Reference Court U/Sec. 18 of the L. A. Act a remedy of appeal is provided by the statute.

6. The revisions can be entertained only, if, it is found that there is procedural irregularity committed by the Reference Court resulting in gross miscarriage of justice as is required U/Sec. 115 of the Code of Civil Procedure or it is a case of non exercise of jurisdiction vested in it.

7. I have gone through the roznama as submitted in one of the matters. It appears that, matters were referred to Lok Adalat. Earlier to that the claimants had filed the evidence by way of affidavit in January 2013. The matters were referred for settlement in September 2013, as per the rozanama dated 10th September 2013 i. e. on the said date the pursis was filed for settlement. There is rozanama dated 24.01.2014 which states that settlement could not take place.

8. Thereafter again the matters were placed for cross examination and further evidence of claimants. The claimants did not appear subsequently.

9. After the order of no cross was passed against the claimants, then the Court was required to give the date for hearing the matters that is for arguments. The said stage did not appear to have been adhered to. There is an irregularity in the procedure while deciding the said references.

10. It would also be seen that, the petitioners were negligent in

prosecuting the matters i. e. after February 2013. No doubt, in the interregnum matters were referred for settlement in the Lok Adalat. The said settlement could not be materialized. However, earlier period will have to be considered while passing an equitable order.

11. In the normal course I would have relegated the petitioners to file appeals as provided U/Sec. 54 of the L. A. Act, but considering the fact that, there is procedural irregularity committed by the Reference Court while deciding the references, I have entertained the revisions.

12. I have also considered the fact that, in some of the references in respect of lands acquired for the same project and from the same area higher compensation is also awarded. I deem it appropriate to grant one more opportunity to the claimants to adduce evidence, however, the petitioners cannot be allowed to gain on account of delay caused by them and would not be entitled for the interest for the period they were negligent as has been held by the Apex Court in the case of **Ramanlal Deochand Shah and another Vs. State of Maharashtra and others** reported in ***2013 AIR SCW 4591***. In the result I pass the following order.

13. The revision applications are partly allowed. The impugned judgment and award passed by the Reference Court is quashed and set aside. The references are restored to their

original position. The parties shall appear before the Reference Court on 01st October, 2015. In case the Reference Court eventually comes to the conclusion to enhance the compensation amount, then in such circumstances, the petitioners would not be entitled for the statutory benefits from February 2013 to 30th September, 2015. The civil revision applications are accordingly disposed of with aforesaid observations.

14. Considering the fact that, references are remitted back, the parties are allowed to adduce further evidence. The Reference Court shall endeavour to dispose of the references expeditiously and preferably within a period of nine (9) months from the date of appearance.

[S. V. GANGAPURWALA, J.]

bsb/Sept. 15