

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

CIVIL REVISION APPLICATION NO. 35 OF 2015

Dashrath Pandurang Salpure & Anr. ... Petitioners

VERSUS

The State of Maharashtra through Secretary,
Revenue & Forest Department, Mumbai & Ors. ... Respondents

.....
Mr D. A. Bide, Advocate for the petitioner
Mr Korde, AGP for respondent/State
.....

ALONG WITH

**CIVIL REVISION APPLICATION NO. 36 OF 2015
CIVIL REVISION APPLICATION NO. 37 OF 2015
CIVIL REVISION APPLICATION NO. 38 OF 2015
CIVIL REVISION APPLICATION NO. 39 OF 2015
CIVIL REVISION APPLICATION NO. 40 OF 2015
CIVIL REVISION APPLICATION NO. 41 OF 2015
CIVIL APPLICATION NO. 3747 OF 2015**

CORAM : S. V. GANGAPURWALA, J.
DATE : 16TH SEPTEMBER, 2015.

PER COURT:

. The references filed by the present petitioners u/s 18 of the Land Acquisition Act, are dismissed, as no evidence has been led by the present petitioners.

2. Mr. Bide, ld. Counsel submits that, within three days of the framing of issues, the matters were decided. No proper opportunity was given to the petitioners for adducing the evidence. There was a communication gap between the Advocate and the petitioners. The petitioners are agriculturists and reside in a remote rural village, one

more opportunity be given to the petitioners for adducing the evidence and prove the case. Other LARs arising out of the same acquisition are still pending with the reference Court.

3. Mr. Navandar, Id. Counsel for respondent - acquiring body and learned AGP for respondent/State submit that, as per Section 54 of the Land Acquisition Act, the petitioners have to file an appeal. Learned Counsel submit that the petitioners were represented by the Advocate, the Advocate remained absent and the applicants also remained absent. As such, in spite of ample opportunity being given, the petitioners did not lead any evidence. No error is committed by the reference Court in dismissing the same after considering the evidence led by the respondents.

4. As far as contention of Mr. Navandar that, the appeal is maintainable against the judgment and award passed by the reference Court u/s 18 of the Land Acquisition Act, is not debated.

5. In normal course, I would not have entertained the present revisions against the impugned judgment and award, however, on perusal of Roznama, it appears that the Court has not followed the proper procedure while disposing of the references. After the right of cross-examination was forfeited of the claimants, it was incumbent upon the reference Court to fix the matters for argument. That stage has been bypassed and without fixing a particular stage for argument, has straightway proceeded to pronounce the judgment.

6. Considering the said flaw in the procedure adopted by the reference Court, I have entertained the present revisions.

7. It would appear that, the issues have been framed in February - 2014 and since then the petitioners and their Advocate were absent. Of course, the proceedings are disposed of within two months thereafter i.e. on 12/5/2014.

8. It would appear that the petitioners are resident of rural remote village, they are agriculturists and rustic persons, they would certainly rely upon their Advocate. The Advocate was also consistently absent. The agricultural land of the claimants, which is their source of income and livelihood, has been acquired.

9. Considering all aforesaid aspects of the matter, I am inclined to grant one more opportunity to the petitioners to adduce the evidence. However, the petitioners can be put to terms that they would not be entitled to claim statutory benefits from 12/3/2014 till this date. The same would be in tune with the decision of the Hon'ble Apex Court in the matter of **Ramanlal Deochand Shah v. State of Maharashtra & Anr.** reported in **AIR 2013 SC 3452**.

10. In light of the above, I pass the following order.

ORDER

- (i) The impugned judgment and award passed by the reference Court is quashed and set aside.
- (ii) The Land Acquisition References are restored to their original position. The parties shall appear before the reference Court on 12/10/2015. The parties are entitled to adduce the evidence.

Considering the fact that the matters are remitted back, the reference Court shall endeavour to dispose of the reference, expeditiously, preferably within one year from today.

- (iii) In case, the reference Court comes to the conclusion to enhance the amount of compensation then the petitioners would not be entitled for the statutory benefits from 12/03/2014 till 12/10/2015.

Civil Revision Applications are partly allowed. No costs.

- 11. In view of disposal of main applications, nothing survives for consideration in the connected civil application and same stands disposed of.

[S. V. GANGAPURWALA, J.]

sgp