

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

5 FIRST APPEAL NO. 2243 OF 2014

PRABHU KANTAPPA KADDE

VERSUS

STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Appellant : Mr. Chillarge Subhash S.

AGP for Respondents: Mr. S. P. Sonpawale

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CORAM : S. V. GANGAPURWALA, J.

DATE : 27th October, 2015

PER COURT :

1. Reference filed under section 18 of the Land Acquisition Act is rejected. Mr. Chillarge, the learned counsel for the appellant submits that in fact, common evidence was led in seven references which were to be decided together. All the lands in the said seven references are acquired for the same purpose i.e. link road, though were situated in different villages. The same sale deeds were required to be considered. It was erroneous on the part of the reference court to reject the reference on the ground that no evidence is led. Learned counsel submits that the appellant relies on the evidence led in other reference so also requests that he be given opportunity to adduce further evidence.

2. Mr. Sonpawale, the learned AGP submits that the

appellant was given an opportunity to adduce evidence. The land situated in different villages will have different market value. As the appellant did not adduce any evidence, the reference court has rightly rejected the references.

3. I have considered the submissions.

4. In fact, seven references are decided by the reference court by a common judgment. The said evidence was also required to be considered by the reference court while deciding the present reference. It is another thing, if the said evidence is considered. The reference court says that the said evidence may not be beneficial to the claimants. But it appears that the said evidence has not at all been considered. The claimant was under impression that the said evidence will be read in his reference also. Now the appellant states that the appellant would also independently lead further evidence.

5. Considering the above, I am inclined to grant one more opportunity to the claimants to prove his case. In the result, I pass following order:

O R D E R

- i. Impugned judgment and award passed to the extent of present appellant is quashed and set aside.
- ii. The parties are relegated before the reference court. The reference court shall decide the LAR No. 511/2010 afresh.
- iii. The parties shall appear before the reference court on 24th November, 2015. The parties are entitled to adduce further evidence.
- iv. The first appeal is accordingly disposed of. No costs.

(S. V. GANGAPURWALA, J.)

JPC