

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

...
1117 CIVIL REVISION APPLICATION NO.9340/2015

MAHADEO S/O BABURAO GHAVAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA &ANOTHER

...
Advocate for Applicants : Mr. Deshpande Gaurav L
AGP for Respondents : Mr. B. V.Viradhe

...
CORAM : S. V. GANGAPURWALA, J.

DATE : 16th October, 2015

PER COURT :

1. Reference filed by the present applicants has been dismissed as the present applicants failed to adduce evidence. The reference is dismissed in 2011.

2. Mr. Deshapdnde, learned counsel submits that the applicants were not intimated about the status of the reference by their advocate. As such, the applicants could not appear and adduce evidence. The learned counsel submits that the applicants are residing in rural villages and are agriculturist. They were not aware of the various stages/dates in the matter and they were also not intimated about the same and as such they could not adduce evidence.

3. According to the learned counsel, agricultural lands of the applicants/claimants are acquired. One more

opportunity may be given to the claimants to prove their case.

4. Learned AGP opposes the appeal and submits that ample opportunity was given to the claimants, however the claimants failed to avail the said opportunity. The claimants did not have any evidence to prove their claim, as such, did not adduce evidence. No error has been committed in this regard. The learned Special Land Acquisition officer, after considering all the relevant aspects of the matter, has rightly passed the award.

5. I have considered the submissions canvassed by the learned counsel for the respective parties.

6. The reference court has dismissed the reference as the claimants have failed to adduce evidence. Perusal of the cause title, it appears that applicants are rustic persons. The claimants are agriculturists. Their agricultural land, which is source of their livelihood, has been acquired. Naturally, they would rely on the advocates for the communication.

7. Considering the aforesaid aspects of the matter, I am inclined to grant one more opportunity to the claimants on certain conditions. The reference was

pending for evidence since 11.12.2008. In case the Reference Court comes to the conclusion to enhance the compensation amount, the claimants would not be entitled for statutory benefit from 11.12.2008 till this date. In light of that, I pass following order:

O R D E R

- i. The impugned judgment and award is quashed and set aside.
- ii. The Land Acquisition Reference No. 229 of 2003 is restored to its original position. The reference court shall decide the Reference afresh.
- iii. The parties shall appear before the Reference Court on 18th November, 2015.
- iv. The parties are permitted to adduce evidence.
- v. In case, the Reference Court comes to the conclusion to enhance the amount of compensation, in that case, the applicants/claimants shall not be entitled for the statutory benefits for the period from 11.12.2008 till 18th November, 2015.
- vi. The Civil Revision application is accordingly disposed of. No costs.

(S. V. GANGAPURWALA, J.)

JPC