

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.161 OF 2014

Harishchandra s/o. Vithalrao
Zungure

..Applicant

Versus

The State of Maharashtra
and ors.

..Respondents

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Mr.D.R. Jayabhar, advocate for applicant

Mr.V.P.Kadam, AGP for respondent nos.1 and 2 –
State

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CORAM : M.T. JOSHI, J.

DATE : MARCH 26, 2015

PER COURT :

Heard.

2] The facts of the case would reveal that the Land Acquisition Reference Application was filed in the year 1994 by the land owner. It was decided on 17th August, 2005 by the learned Addl. District Judge. Against that award, First Appeal No.818 of 2011 was filed in this Court by the

acquiring body. The matter was remanded back by this Court to the reference court, with a direction to the present applicant to join the acquiring body as the respondent. The parties were directed to appear before the reference court on 31st August, 2012. Direction was also given to the reference court to decide the reference application afresh considering the difficulty of the present applicant land owner.

3] Thereafter, however, though the present applicant appeared in the said proceedings, no steps were taken for supply of copy of the amended petition for service of the same on the added party for six months and nobody remained present from the side of the applicant, In the circumstances, on 4th April, 2013, the reference application came to be dismissed. Despite all these facts, the applicant filed an application for restoration of the reference application under

Order IX Rule 4, 9 and Section 151 of the Code of Civil Procedure. In the circumstances, relying on the various facts, learned reference court rejected said application on 11th March, 2014. Hence, the present revision application by the land owner.

4] Mr. Jaybhar, learned counsel for the applicant, submits that considering the fact that the applicant would suffer if the matter is not again remanded to the reference court, present revision application may be allowed. He relies upon the ratio laid down in the cases of (1) **Narayan Dhondiba Aghav Vs. State of Maharashtra and ors., 2013 LAC 135 (Bom);** (2) **Narayan Deorao Gore (died) Vs. The State of Maharashtra, 2010(2) LACC 328 (Bom);** and (3) **Subhash s/o. Babulal Rajput Vs. The State of Maharashtra and anr., 2012 LAC 366(Bom).**

5] Learned A.G.P. for respondent nos.1 and 2 – State opposes the revision application. He submits that this Court was sensitive enough when earlier, remand of the proceedings was directed. The reference court was also directed to decide the reference application within a period of six months. The conduct of the present applicant, however, would show that he was negligent in not supplying the additional copy and ultimately, learned Judge was compelled to dismiss the reference application.

6] Considering the overall facts on record, in my view, the ratio laid down in the cases cited supra, would not be applicable to the present case as each of the case will have to be decided on its own merit. The revision applicant is trying to revive the proceedings which is as old as of 1994, by not remaining vigilant despite direction of

this Court to the learned reference court to decide the case within six months.

7] In that view of the matter, present Revision Application is dismissed without any order as to costs.

[M.T. JOSHI, J.]

kbp