

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

CIVIL REVISION APPLICATION ST. NO.21504/2013

RAFIYODIN MEHATABSAB

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr. Ingale Vivekanand V.

AGP for Respondents State: Mr. P. N. Kutti

Advocate for Respondent No.3 : Mr. S. B. Bhosale

...

CORAM : S. V. GANGAPURWALA, J.

DATE : 30th October, 2015

PER COURT :

1. The present revision applicant had filed references under section 18 of the Land Acquisition Act. The applicant failed to adduce any evidence. The references are dismissed. Aggrieved thereby, the present revisions.

2. Mr. Ingale, the learned counsel for the applicant submits that the applicant is an agriculturist, residing in remote rural village. He was relying on his advocate, however, there was communication gap between Advocate and the claimant, as such, the applicant could not adduce evidence. According to the learned counsel, agricultural lands of the applicant/claimant is acquired. One more opportunity may be given to the

claimant to prove his case.

3. Learned AGP so also Mr. Bhosale, the learned counsel oppose the revision application and submit that ample opportunity was given to the claimant, however the claimant failed to avail the said opportunity. The claimant did not have any evidence to prove his claim, as such, did not adduce evidence. No error has been committed in this regard.

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

5. It is a fact that the claimant/applicant is agriculturist. He is residing in remote rural village and is a rustic person. Naturally, he would rely on the advocate for the communication. In many of the cases, advocate of the applicant/claimant was also absent on the dates of evidence.

6. Considering the aforesaid aspects of the matter, I am inclined to grant one more opportunity to the claimant. However, the claimant would not be entitled for the statutory benefits, in case the Reference Court comes to the conclusion to enhance the compensation

amount. The same shall be in tune with the judgment of Apex Court in case of **Ramanlal Deochand Shah v. State of Maharashtra & Anr.**, reported in **AIR 2013 SC 3452**. In light of that I pass following order:

O R D E R

- i. The impugned judgment and order is quashed and set aside.
- ii. L.A.R. No113/2008 (Old No.67/2005) is restored to its original position.
- iii. The parties shall appear before the Reference Court on 30.11.2015.
- 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 petitioner/claimant shall not be entitled for the statutory benefits for the delayed period i.e. from the date the reference was dismissed, till 30th November, 2015.

(S. V. GANGAPURWALA, J.)

JPC