

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 131 OF 2014
(Ramchandra @ Ramkishan Madhav Solav, Since deceased
through L.Rs. Babu Ramchandra Solav and others Vs. The
State of Maharashtra and others)

Mr. J.M. Murkute, Advocate for petitioners
Mr. V.P. Kadam, A.G.P. for the respondents/State
Mr. Ruturaj C. Patil, Advocate for respondent No. 3

CORAM : M.T. JOSHI, J.
DATE : 25/03/2015

ORAL ORDER :

1. Heard both sides.
2. Aggrieved by the rejection of an application for setting aside the abatement of the reference proceedings under the Land Acquisition Act and consequent refusal to condone the delay in bringing the legal representatives of the original petitioner, the present revision application is filed.
3. The argument from both sides would show that the reference proceedings were filed in the year 1993 and original petitioner died in 1995. The legal representatives, however, thereafter did not turn up to

the court. The Reference Court, therefore, issued notices to the original petitioner on 28.07.2011 and thereafter on 09.02.2012. the present petitioners i.e. the legal representatives of deceased original petitioner appeared. However, except the filing of vakalatnama on their behalf, no further action was taken by them. Thereafter, the issues were framed and lateron, the present petitioners came with an application for bringing them on record as legal representatives by filing an application, on 01.07.2014, and for condonation of delay. However, no application for setting aside abatement of the proceedings or delay caused in setting aside abatement was filed. In the circumstances, the learned Judge of the Reference Court observed that when the petitioners first appeared on 09.02.2012, no-one had prevented them from filing an application for bringing them on record. Therefore, the reason mentioned in the application that the petitioners had gone in search of livelihood as labours cannot be accepted. The application was, therefore, dismissed.

4. The learned counsel for the petitioners files on record true copy of the award passed in Land

Acquisition Reference No. 3/2009, which is accepted on record and marked "X" for the purpose of identification. The said copy of the award would show that the another land owner, whose land was acquired for the same purpose under the same notification, was awarded the compensation twice the rate that was awarded by the Land Acquisition Officer. The award in the said Land Acquisition Reference No. 3/2009 is dated 6th August, 2012. The learned counsel for the respondent No. 3 submits that the said award is under challenge in this Court by way of first appeal.

5. Considering all the facts on record and finding that the present petitioners/legal representatives of the original petitioner were not aware of the filing of the land acquisition reference application and thereafter, due to ignorance of law of the petitioners and the fact that their Advocate had only filed vakalatnama on record, upon noticing the fact that the land acquisition reference application was filed and more particularly when enhancement is granted in the similarly situated case, in my view, the present civil revision application deserves to be allowed on certain

conditions. Hence, the following order:-

6. The civil revision application is allowed without any order as to costs. The order passed by the Civil Judge Senior Division, Gangakhed below Applications – Exhibit-20 and Exhibit-21, dated 01.07.2014, is hereby set aside. Instead, the applications of the present petitioners at Exhibit-20 and Exhibit-21 in Land Acquisition Reference No. 5/2007 are hereby allowed. The abatement is set aside. The delay caused in filing the application for bringing the legal representatives is hereby condoned.

7. The parties are directed to appear before the Reference Court on 23rd April, 2015. The present revision petitioners be brought on record as legal representatives of the deceased original petitioner before the Reference Court upon appearance of both the sides in the Reference Court on 23rd April, 2015.

8. The learned Civil Judge Senior Division shall allow the substitution of the present petitioners in place of the deceased petitioner on the date of their

appearance before him on 23rd April, 2015. Thereafter, both the parties be heard on merit of the case.

8. Considering all the facts on record, the revision petitioners shall not claim any statutory interest over the enhanced compensation, if any for the delayed period from the date of death of the original petitioner till the date of first appearance of the present petitioners before the Reference Court i.e. from 01.01.1995 till 23.04.2015.

. The present civil revision application accordingly stands disposed of.

[M.T. JOSHI]
JUDGE

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