

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 238 OF 2015

SHIVAJI BHIMRAO PHUGATE
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR
OSMANABAD AND OTHERS

...
Advocate for Petitioner : Ingale Vivekanand V.
AGP for Respondents: Mr.A.M.Phule
Advocate for respondent no.3 : Mr.S.B.Bhosale

...

CORAM : S.V.GANGAPURWALA,J.

DATED : 29TH OCTOBER, 2015

PER COURT :-

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

2. Mr. Ingale, the learned counsel for the applicant submits that the applicant is agriculturists, 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 submits 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 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. The land acquisition reference is restored to its original position.
- iii. The parties shall appear before the Reference Court on 27.11.2015.
- 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 27th November, 2015.
- vi. Civil Revision Application is accordingly disposed of. No costs.

[S.V.GANGAPURWALA,J.]