

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 975 OF 2014.

Shri Krishna Ganpati More.

.. Petitioner

Vs.

The State of Maharashtra Mumbai & ors.

.. Respondents

Mr.S.B.Deshpande, for the petitioner.

Mr.C.P.Yadav, Assistant Government Pleader, for the respondent
Nos.1 to 4.

***CORAM: Smt. Vasanti A. Naik &
Shri C.V.Bhadang JJ.
Friday 20 February, 2015.***

PC.:

By this petition the petitioner challenges the land acquisition proceedings and the award passed therein.

The land of the petitioner was acquired by State of Maharashtra in pursuance of the Section 4(1) Notification issued on 9 May 2008. It is the case of the petitioner, that though the petitioner submitted the objections to the Land Acquisition Officer on 9th June 2008, the petitioner was not granted an opportunity of hearing, as required by the provisions of Section 5 A of the Land Acquisition Act 1894. It is stated that neither was the petitioner heard nor was his objection decided. It is stated that in the absence of an opportunity of hearing under Section 5A of the Act, the land acquisition proceedings as also the award are liable to be quashed and set aside.

Since a statement was made on behalf of the petitioner on the previous date of hearing that though it is mentioned in the award that no objection was filed by the land holders, the petitioner had indeed filed an objection on 9th June 2008 and hence to verify the correctness of the statement made by the learned counsel, we had directed the State Government to produce the original record and proceedings.

On a perusal of the record, we find that on 9th August 2011, the petitioner has stated before the Land Acquisition officer that there was no encumbrance on the land and the petitioner may be awarded the compensation as per the market rate on 9th August 2011. On a perusal of the document dated 9th August 2011, which appears to have been signed by the petitioner, it appears that the petitioner did not have any objection for the acquisition of the land, atleast on 9 August 2011 and had only sought compensation at the market rate. The petitioner has also filed a reference under Section 18 of the Land Acquisition Act, for enhancement of compensation.

In view of the aforesaid, the award passed in the year 2012 cannot be set aside on the basis of the submissions made on behalf of the petitioner. In the result the Writ petition fails and is dismissed with no order as to costs.

(C.V.Bhadang J.)

(Vasanti A.Naik J.)