

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL REVISION APPLICATION NO.90/2014

Narayan s/o Dattu Sapkal

..Versus..

The State of Maharashtra, through its Collector, Wardha and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. A. Athalye, Advocate for the applicant.

Ms. B.P. Maldhure, A.G.P. for the non-applicants 1 and 2.

CORAM : Z.A. HAQ, J.

DATE : 2.2.2015

Heard Ms. A. Athalye, the learned advocate for the applicant
and Ms. B.P. Maldhure, the learned A.G.P. for the non-applicants 1 and
2.

The applicant has filed this civil revision application under
Section 115 of the Code of Civil Procedure challenging the order

passed by the Reference Court rejecting the reference filed by the applicant under Section 18 of the Land Acquisition Act, 1894.

The submission on behalf of the applicant is that though the applicant was vigilant in prosecuting the reference, his case could not be put up properly because of the old age of his advocate. It is submitted that the advocate representing the applicant shifted from Wardha district to the place where his son resides and because of that the applicant could not get feed back of the proceedings. Ms. Athalye, the learned advocate submits that the owner of the adjacent field has been granted compensation at higher rate and for the reasons stated above, the applicant could not put forth his case before the Reference Court which has resulted in depriving the applicant of just and fair compensation for his acquired land. In support of her submissions reliance is placed on the judgment given by this Court in the case of *Subhash s/o Babulal Rajput V/s. The State of Maharashtra an another* reported at **2012(1) ALL MR 42**.

Ms. Maldhure, the learned A.G.P. for the non-applicants 1 and

2 opposed the revision application. The learned A.G.P. has submitted that the applicant has not placed any document on the record to substantiate his contentions.

Considering the facts of the case, specifically that the non-applicants have not controverted the submissions made by the applicant on oath in the revision application and the fact as stated on oath that the owner of the adjacent field has been granted compensation for the acquired land at higher rate than what is granted to the applicant, in my view, the interests of justice would be sub-served by granting an opportunity to the applicant to prove his claim before the Reference Court.

Hence the following order :-

- (1) The impugned order is set aside.
- (2) The matter is remitted to the learned Joint Civil Judge (Senior Division), Wardha for deciding the reference filed by the applicant under Section 18 of the Land Acquisition Act, 1894 afresh.
- (3) The learned trial Judge shall give opportunity to the applicant

as well as the non-applicants to file additional pleadings, documents and to lead the evidence, if so advised.

(4) The applicant and the representative of the non-applicant shall appear before the learned Joint Civil Judge, Senior Division, Warhda on 13th March, 2015 at 11 a.m. and abide by his further directions in the matter.

(5) The civil revision application is allowed in the above terms.

(6) In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.