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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.87 OF 2016

Vishwanath s/o Hanumant Khajure
Age - 76 years, Occ - Agriculture
R/o Aloor, Taluka - Omerga,
District - Osmanabad

APPLICANT

VERSUS

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| 1. The State of Maharashtra,
Through the Collector,
Osmanabad | RESPONDENTS |
| 2. The Special Land Acquisition Officer,
Krishna Khore, Osmanabad | |
| 3. The Executive Engineer,
Irrigation Project Strengthening Division,
Omerga, District - Osmanabad | |

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Mr. Santosh N. Patne, Advocate for the applicant
Mr. A. P. Basarkar, AGP for respondent - State

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 30th AUGUST, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the appearing parties.

2. The applicant, who is 76 years old and an agriculturist hailing from a remote area in Omerga taluka, is before this court aggrieved by dismissal of his Land Acquisition Reference filed way back in 2005 seeking enhancement of compensation, due to non adducing of evidence.

3. It transpires that delay in filing present civil revision application has already been condoned under the orders of this court dated 20th June, 2016 in Civil Application No.3168 of 2016.

4. Learned advocate for the applicant points out, not only that the applicant is an agriculturist having limited literacy level and that he is an old person, the place where he is residing is a remote place, access to which is not easily available. In the circumstances, due to variety of circumstances, as referred to above, due to old age, literary level, the applicant lost contact with advocate, who was prosecuting the land acquisition reference, nor any communication had reached at his place. In the circumstances, the order came to be passed. Non adducing of evidence under the circumstances, had never been intentional nor deliberate.

5. Learned advocate, further on instructions, states that the applicant would not claim benefit of interest, if compensation is enhanced, from 8th August, 2012 i.e. the date of decision in the Land Acquisition Reference to the date of its restoration.

6. Learned advocate for the applicant purports to refer to a decision of this court dated 14th December, 2015 in Civil Revision Application No.296 of 2015, which he contends to be passed under similar circumstances, wherein this court has treated the matter with leniency, particularly in view of the fact that the applicant had lost his source of livelihood under the land acquisition proceedings. He, as such, requests for similar treatment being given to the applicant.

7. Learned AGP, however, resists the request and submits that in the first place, the delay, though was inordinate, has been condoned and the reasons which have been given seeking leniency, would not be the reasons which deserve any consideration. Learned AGP further states that the application does not reflect as to what sort of evidence is in possession of the applicant. He, as such, requests to dismiss the civil revision application.

8. Be that as it may, since it appears that the prosecution of Land Acquisition Reference has been going on since 2005 to 2012, looking at the age of the applicant, it is difficult to consider that the omission to adduce evidence during the prosecution of the land acquisition reference proceedings can be said to be deliberate or for that matter any benefit would be derived by the applicant, especially in view of the statement is being made on behalf of the applicant that he would not claim benefit of interest if compensation is enhanced, for the period from decision in the land acquisition reference till its restoration and in the face of situation, wherein although the reasons for consideration are being resisted on behalf of the respondent-State, yet veracity of the contentions cannot be said to have been in any way doubted. In the circumstances, the civil revision application deserves to be allowed.

9. In view of aforesaid, the civil revision application stands allowed on the condition that the applicant shall deposit costs of Rs.5000/- in this court within a period of a fortnight for withdrawal by Government Pleader's office. Rule is made absolute in terms of prayer clause "C". The applicant shall adduce evidence as early as possible and the land acquisition reference No.125 of 2008 be disposed of expeditiously,

preferably within a period of six months from the date of receipt of writ of this order by Civil Judge, Senior Division, Omerga, . It is expected that on this occasion the applicant will co-operate with the court.

[SUNIL P. DESHMUKH, J.]

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