

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7581 OF 2015

ANUP KISHORILAL RAMUKA AND OTHERS
VERSUS
THE COMPETENT AUTHORITY AND SPECIAL LAND ACQUISITION OFFICER,
DHULE AND OTHERS

...

Advocate for Petitioners : Mr. A.B. Kale
AGP for Respondents: Mrs. A.V. Gondhalekar.
Advocate for respondent No.2 : Mr. Manorkar, Adv. h/f. Mr. M.V. Kini and Co.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 29th JUNE , 2016.

PER COURT:

1] Vide the present writ petition, the petitioner assails the letter dated 7th November, 2011, so also, the award Exhibit H.

2] Mr. Kale, learned counsel for petitioner submits that the land of the petitioners bearing Survey No. 60/1/B of village Ajang, Taluka and District Dhule is acquired. The award has been passed. While passing the award, a mistake has been committed while valuing the trees in the land. On wrong premises that the trees said to be standing on Gat No.60/2/B, the competent authority has failed to give any compensation for the trees.

3] Learned counsel submits that there were two joint measurement reports. In the first joint measurement report, it is clearly stated that in land bearing Survey No. 60/1/B, 158 pomegranate trees are standing. Even in the second joint measurement report, it is stated that 158 trees are standing. However, mistake was committed in respect of Gat Number and it was stated that 158 pomegranate trees are standing in Survey No. 60/2/B. Because of the said mistake committed in the second joint measurement report, a further mistake has been committed in the award.

In the award, in the valuation sheet, reference is made to Gat No.60/2/B and it is further stated that no trees are found. In fact, Gat No. 60/2/B is not existing in the whole village. Learned counsel for the petitioner submits that even the valuation report has been submitted by the District Superintending Agricultural Officer, Dhule valuing the trees in Gat No. 60/1/B. However, said amount has not been awarded in the award. Even the petitioner moved the competent authority for correction in the award with regard to said trees. However, no cognizance has been taken. Moreover, the land of the petitioner admeasuring about 1300 Sq. meters is acquired and award is passed only in respect of 1000 square meters of land and no award has been passed in respect of the remaining 300 sq. meters or 3 Are of land. Learned counsel for the petitioner submits that the respondents be directed to pay the compensation in respect of 158 pomegranate trees and also in respect of the remaining 3 Are of land.

4] Mr. Manorkar, learned counsel for the Highways Authority and learned AGP submits that the process has been commenced to pass award in respect of remaining 3 Are land. Learned counsel submit that trees were not standing/existing on the land as on the date of notification under Section 3A which is issued on or about 17th October, 2011. According to learned counsel, panchanama made would also clarify the said aspect. Panchanama of 28th March, 2014 states that age of the said trees is 3 years i.e. they were not in existence at the time of notification under Section 3A.

5] We have considered the submissions canvassed by the learned counsel for the respective parties. As far as the grievance of the petitioner with regard to award not being passed for 3 Are land is concerned, the respondents have categorically accepted the said mistake and have agreed to pass fresh award in respect of 3 Are land. To that extent, the grievance of the petitioner does not survive.

6] The grievance of the petitioner about the compensation not being paid in respect of pomegranate trees is concerned, the same appears

to be in the arena of dispute. No doubt, it appears that in the second joint measurement report, a mistake has been committed in respect of Gat number. In the first joint measurement report, the Gat number is correctly stated i.e. 60/1/B and number of trees are also mentioned i.e. 158 pomegranate trees. In the second joint measurement report, a mistake has been committed in the Gat number, wherein, Gat No. 60/2/B is on record and there also, 158 pomegranate trees are mentioned. In the award i.e. valuation sheet, a wrong Gat number is mentioned i.e. 60/2/B and with regard to 158 pomegranate trees, the valuation is referred to as zero and remark is as per the report of the Agricultural Department that on the spot the pomegranate trees do not exist.

7] This remark, probably appears on the premise that Gat No. 60/1/B does not exist and that the same was never a subject matter of acquisition. From the various reports, the factum of presence of 158 pomegranate trees cannot be disputed. The dispute probably appears to be about the age of the trees, as having been pointed out at the time of notification under Section 3A. There are various reports which were required to be considered while passing the award in respect of the trees. Same probably does not appear to have been considered and on the ground that trees do not exist on the spot, no amount has been valued as far as pomegranate trees are concerned. The competent authority ought to have applied his mind to the various joint measurement reports and other reports submitted by the Department before coming to the conclusion about the valuation of the said trees.

8] In the result, the respondent authority shall re-consider the various reports/joint measurements conducted and re-determine the aspect of compensation in respect of pomegranate trees. It may happen that some pomegranate trees may be in the 3 Are land for which separate award is being passed. While passing the award in respect of the said 3 Are land, the aspect of pomegranate trees shall also be considered, so also, in respect of the award already passed, the aspect of pomegranate trees in respect of 10

Are land of Gat No. 60/1/B shall also be considered. Same be done expeditiously.

9] In the light of above observations, Writ petition is accordingly disposed of. No costs.

[K.K. SONAWANE]
JUDGE

grt/-

[S.V. GANGAPURWALA]
JUDGE.