

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

CIVIL REVISION APPLICATION NO.93 OF 2014

Karbhari S/o. Anna Satpute
and another

.. Applicants

Versus

The State of Maharashtra
and others

.. Respondents

Mr.Ankush N. Nagargoje, Advocate for the applicants
Mr.N.B.Patil, AGP for the respondent/State

**CORAM : A.V.NIRGUDE, J
DATED : 29.08.2016**

P.C. :-

1. This revision application has a checkered history. Applicants' land was utilized for road widening by Sangamner Municipal Council, Dist. Ahmednagar who is respondent No.3. Sometime in 1983, since this was done without following due process of law, the applicants filed a suit challenging the act of encroachment etc. The parties arrived at the compromise and it was decided on 21.01.1985 that Municipal Council would first get the land measured and then appoint the Officer to calculate the compensation etc. Respondent No.3-Municipal Council then appointed the Assistant Director, Town Planning, for

examining the case and fixing the market rate. Accordingly, the market rate was fixed and a recommendation was made as per agreement between the parties. The Municipal Council was supposed to pay the amount of compensation thereafter, but this was not done.

2. In the meantime, the applicants preferred execution of compromise decree, but in-vain. In 2011, the revision was filed before this Court, in which this Court held that the report of the Assistant Director, Town Planning, was nothing but Award in the Land Acquisition proceeding and the same can be challenged by filing a Reference. Accordingly, a Reference was moved, but the Land Acquisition Officer rejected it, since the Award was not passed.

3. In my view, the Land Acquisition Officer did not read the earlier order dated 31.01.2011 of this Court properly. It was held that the report of Assistant Director Town Planning was equivalent to Award and therefore, under Section 18 of the Land Acquisition Act it was possible if the order passed by this Court was not acceptable. Anyway the case was not prejudiced to the State of Maharashtra. They are not supposed to stop the proceedings which are essential between the owner of the land and acquiring body, which is Municipal Council.

Therefore, Revision deserves to be allowed in terms of following order.

4. Reference submitted by the applicants to Respondent No.2/ Acquisition Officer shall be sent as Reference under Section 18 of the Land Acquisition Act immediately. Reference Court shall decide the reference as if it is a Reference against the Award without raising the point of limitation. The parties are at liberty to lead proper evidence to decide the market value as on the date of report dated 01.06.2004 of Assistant Director Town Planning. In view of the land acquisition reference the reference which is returned to the applicants, shall be re-submitted to respondent No.2 who shall refer it to the Court through the Collector within six weeks from the date of re-submission of Reference by applicants. The Reference Court shall decide the said Reference expeditiously and preferably within one year.

5. Civil Revision Application is accordingly allowed and disposed of.

[A.V.NIRGUDE,J.]