

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

CIVIL REVISION APPLICATION NO. 244 OF 2015

Balwant @ Vilas s/o Venkatrao Patil
Age 67 years, occup. Agril.,
R/o Murum, Tq. Omerga, .. Applicant /
Dist. Osmanabad Original Claimant

versus

1. The State of Maharashtra,
through the Collector, Osmanabad
2. The Special Land Acquisition Officer
Krashna Khore, Osmanabad
3. The Executive Engineer,
Strengthening Division,
Krashna Khore, V. D. Corpn. Division,
Omerga, Dist. Omerga .. Respondents/
Orig. Respondents

At present, office is working at new
address: Sina Kolegaon Prkalp Vibhag,
Paranda, Tq. Paranda, Dist. Osmanabad

Mr. Ganesh V. Patil, Advocate for applicant
Mr. A. P. Basarkar, Assistant Government Pleader for
respondents no. 1 and 2

CORAM : SUNIL P. DESHMUKH, J.
DATE : 21st September, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by consent of the parties.
2. Heard learned counsel for the parties.
3. Civil revision application by original claimants has been moved against dismissal of the land acquisition reference bearing No. 98 of 2008 (old number 2144 of 2004) under section 18 of the Land Acquisition Act, 1894 by reference court [Civil Judge, Senior Division, Omerga], under order dated 27-02-2013.
4. Learned counsel for applicant points out that the proceedings went on for quite a long time and in the process he could not keep track of the matter from day today nor any communication had reached him about progress in the proceedings. he submits, initially proceedings were pending in the court at Osmanabad, however, subsequently proceedings had been transferred to the court at Omerga and, as such, attending the court proceedings had become tedious nor any

communication had reached the applicant either before the decision had been given by the land acquisition reference court or for that matter for quite a long time thereafter. He further points out that delay in filing present civil revision application has been condoned. Learned counsel, therefore, urges to take lenient view in the matter, submitting that the situation as in present matter had also come up in civil revision application [stamp] No. 29142 of 2014 and the Honourable single judge of this court had allowed said civil revision application under order dated 09-10-2015.

5. Learned Assistant Government Pleader appearing for respondents purports to resist the request under the present civil revision application, submitting that ample opportunity had been given to the claimant, however, he failed to utilize the same and further submitted that in the absence of any evidence, the reasons in the order impugned can seldom be faulted with.

6. Learned Assistant Government Pleader though contends that the applicant is likely to get one more opportunity pursuant to section 28A of the Land Acquisition Act, 1894, in case, if other land acquisition reference proceedings for

enhancement of compensation by other claimants pursuant to section 4 notification are decided enhancing compensation, however, he has not been in a position to state whether such proceedings by other persons have been filed.

7. In the circumstances, though the learned Assistant Government Pleader purports to resist, the situation cannot be lost sight of that the proceedings have been pending since 2004 and in the meanwhile there had been transfer of the same from the court at Osmanabad to the court at Omerga and lot of time has been consumed in the process and it is but natural that the initial vigor with which the proceedings had been kept watch by applicant, would not have been possible as the time goes by. Thus, the reasons which have been put forth by applicant appear to be quite plausible. It further cannot be lost sight of that the claimant is a villager and his literacy level is also limited and further that he is an agriculturist.

8. In the circumstances, civil revision application deserves to be allowed albeit with certain conditions.

9. Civil revision application stands allowed. The impugned order dated 27-02-2013 passed by the reference court [Civil

Judge, Senior Division, Omerga], dismissing land acquisition reference bearing No. 98 of 2008 (old number 2144 of 2004) under section 18 of the Land Acquisition Act, 1894, stands set aside and said land acquisition reference is restored to its original position. The parties would appear before the land acquisition reference court on 18-10-2016. The parties are permitted to adduce evidence. In case the reference court comes to the conclusion to enhance the compensation amount, in that case the claimant would not be entitled for statutory benefits from 21-06-2008 to 18-10-2016.

10. Rule made absolute in aforesaid terms. Civil revision application stands disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd