

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

14 APEAL FROM ORDER NO. 36 OF 2017
WITH CA/3217/2017 IN AO/36/2017

BABURAO DATTARAO BHALERAO AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR, HINGOLI AND
OTHERS

...

Advocate for appellants : Mr. Bodkhe Bhaginath T.
AGP for Respondents State: Mr. B. A. Shinde
Advocate for Respondent No.3 : Mr. Pathan Hamzakhan I.

CORAM : K. L. WADANE, J.

DATE : 11th December, 2017

ORDER:

1. Heard learned counsel for the appellants, learned AGP for respondent Nos. 1 and 2 and Mr. Pathan, learned counsel for the respondent No.3.

2. Survey No.129/2 situated at Basmant town is the subject matter of the present appeal from order. The learned counsel for the respondents submits that land Survey No.129/2 to the extent of 64 R, 40 R and 40 R has been already acquired by respondent No.3 for the purpose of development of Basmant town. The learned counsel for the appellants submits that the Land Acquisition Officer has not followed the proper procedure to acquire the land. The learned counsel further submits that the purpose for which the land was acquired is now changed and therefore, the

acquisition of the disputed land is in contravention of the provisions of the Land Acquisition Act.

3. Considering the submission of the learned counsel for the appellants, I am of the opinion that by way of filing the Appeal from Order, the legality of the Award cannot be challenged. If at all the appellants are aggrieved with the acquisition of their land, then the appellants may avail remedy available in law, but, certainly that cannot be challenged in the appeal from order.

4. The learned counsel for the respondents points out that the respondents have acquired the land by following proper procedure and the present appellants have withdrawn the amount of compensation. The learned counsel for the respondents relied on the receipt page no. 37, from which, it appears that the present appellants have accepted the amount of compensation, that too without protest. Further the learned counsel for the respondents drawn my attention to the Panchanama dated 3rd March, 1986, from which, it appears that the possession of the disputed land i.e. Survey No.129/2 was already taken by the Acquiring Body. Copy of the possession receipt dated 03.03.1986

is also placed on record. 7/12 extracts of the land reveals the name of the Municipal Council, Vasmant since 1987 onwards. Mutation Entry No.1315 is already taken to that effect.

5. All the above documents goes to suggest that the lands of the present appellants have been quired by the respondents. Further more, the respondents have taken possession of the disputed property. Prima facie it appears that the appellants have accepted the amount of compensation without protest.

6. In view of the above, I do not find any substance in the Appeal from Order and therefore, it needs to be dismissed and accordingly it is dismissed.

7. Interim relief granted earlier stands vacated.

8. Pending civil application also stands disposed of.

(K. L. WADANE, J.)

JPC