

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
 905 FIRST APPEAL NO. 2851 OF 2017

ARUN KADU AKOLKAR
 VERSUS
 THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Appellant : Mr. Pahune Patil Nandkishor J.
 AGP for Respondent State: Mr. A. M.Phule
 Advocate for Respondent No.2 : Mr. Surwase B.R

CORAM : K. L. WADANE, J.

DATE : 20th September, 2017

ORDER:

1. With the consent of the parties, the appeal is taken up for final hearing at the admission stage.

2. Residential house of the appellant was acquired for construction of Irrigation project. When the matter was fixed for hearing before the reference court, the claimants were ready to lead evidence. However, the claimants could not collect their documentary evidence, therefore, could not lead evidence within time. Therefore, the Land Acquisition Reference No.503/2005 filed by the appellant had been dismissed by the learned Reference Court.

3. Heard Mr.Patil, the learned counsel appearing for the appellant, who submits that the residential house of the appellant was acquired for the Khari

Medium Irrigation Project. The claimants were unable to get report from the valuer in time and therefore they were unable to lead their oral as well as documentary evidence to show the actual market value of the acquired land on the date of notification under section 4 of the Land Acquisition Act.

4. Learned counsel appearing for respondents Acquiring body submitted that there was negligence on the part of the appellant, however, if this Court comes to the conclusion that appeal needs to be allowed, then the monetary benefit and/or interest from the date of dismissal of Reference i.e. 07.01.2013 till filing of the appeal would not be claimed by the claimants.

5. From the facts and circumstances of the case and considering the arguments advanced by the learned counsel for the appellant, it appears that the appellant was prevented by certain causes from leading documentary as well as oral evidence before the reference court. Therefore the reference court has dismissed the Reference for want of evidence.

6. Since the immovable property of the appellant has been acquired, one opportunity must be given to the appellant to establish the market price of the quired

land at the relevant date of notification.

7. Hence the impugned judgment and award passed by the reference court in Land acquisition Reference No. 503 of 2005 dated 17.1.2013 is set aside. The matter is remanded to the Reference court for hearing in accordance with law.

8. The reference court shall give opportunity to the appellant as well as respondents to lead evidence and decide the Reference within a period of six months from the date of appearance of the parties.

9. First appeal is accordingly disposed of.

10. In the event the appellant succeeds, it is made clear that the appellant will not be entitled for the interest on monetary benefits and/or other statutory benefits for the delayed period.

(K. L. WADANE, J.)

JPC