

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 603 OF 1994
WITH
CIVIL APPLICATION NO. 1819 OF 1995
IN
FIRST APPEAL NO. 603 OF 1994

The State of Maharashtra	..	Appellant
VS.		
Bhaidu Ragho Achari & Ors.	..	Respondents

Mr. A. A. Palkar - AGP for Appellant - State.
Mr. Nikhil Pujari h/f. Mr. P. N. Joshi for Respondents.

CORAM : M. S. SONAK, J.
DATE : 03 APRIL 2017

P.C :

1] The challenge in this appeal is to the judgment and order dated 26 February 1992 made by the Reference Court correcting its award dated 11 September 1984 in Land Reference No. 19 of 1984 and directing the State to pay solatium at the rate of thirty percent and interest at the rate of fifteen percent per annum from 19 February 1992 until the entire amount of compensation is paid or deposited to the claimants.

2] Mr. Palkar, learned AGP submits that the Reference Court, has no power of review. He submits that even assuming that such powers exist since there was no error apparent on face of record, such power should not have been exercised. He submits that in any case there was no justification for award of interest at the rate of fifteen percent per annum, by ignoring the provisions of section 34 of the Land Acquisition Act, 1894.

3] Upon perusal of the impugned judgment and order, it is seen that the Reference Court has not exercised powers of substantial review but has merely corrected its award by resort to section 152 of CPC or the principles analogous thereto. Therefore, it is not necessary to go into the question as to whether the Reference Court is vested with the powers of review or not.

4] The Reference Court, in its award dated 11 September 1984 had awarded solatium of only fifteen percent and interest of only four percent per annum. This was an obvious error and such error, has been corrected by the Reference Court taking into consideration the substantive provisions of the Land Acquisition Act, which provided for solatium of thirty percent and interest at the rate of nine percent per annum for the first year and fifteen percent per annum thereafter until payment or deposit of entire compensation as may have been awarded. There is some discrepancy between what is awarded in paragraph 4 of the impugned judgment and order and the operative portion of the order. Accordingly, the same is made clear that the interest shall be at the rate of nine percent per annum for the first year followed by fifteen percent per annum for the balance period until date of payment / deposit in the Court.

5] The award made by the Reference Court as corrected by the impugned judgment and order is quite consistent with the provisions of the Land Acquisition Act, 1894 as then applicable and also, the decision of Hon'ble Supreme Court in the case of ***Bhag Singh & Ors. vs. Union Territory of Chandigarh through the Land Acquisition Collector, Chandigarh***¹.

1 (1985) 3 SCC 737

6] Further, in the case of ***Shree Vijay Cotton & Oil Mills Ltd. vs. State of Gujarat***², in the precise context of the award of interest in terms of the statutory provisions contained under the Land Acquisition Act, 1894, the Hon'ble Supreme Court has ruled that substantive rights under the Act cannot be affected by the procedural rules.

7] In view of the aforesaid, there is no case made out to interfere with the impugned order except for clarification in the aforesaid terms.

8] The Appeal is accordingly dismissed. There shall be no order as to costs.

9] In view of dismissal of Appeal, Civil Application for stay does not survive and is disposed of accordingly.

(M. S. SONAK, J.)

Chandka

² (1991) 1 SCC 262