

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1212 OF 2016**

Hanumant Shivagonda Billur & Anr	...Appellants
<i>Versus</i>	
The Special Land Acquisition Officer No.9, Sangli & Ors	...Respondents

Mr TS Ingale, *for the Appellant.*
Ms Ashwini Takalkar, *AGP for the State/Respondents.*

CORAM: G.S. PATEL, J
DATED: 27th June 2017

PC:-

1. The First Appeal is directed against the judgment dated 11th April 2012 of the Civil Judge, Senior Division, Sangli, dismissing a Land Acquisition Reference under Section 18(1) of the Land Acquisition Act. The Applicants, the original claimants, are in Appeal.

2. It is pointed out on their behalf by Mr Ingale that the Applicants' land is absolutely adjacent to their brother's land at Block No.1310; the Applicant's land is at Block No.1309. The Applicants' brother received an award of enhanced compensation by an order of 7th July 2014.

3. The result is that the Applicants have been compelled to come in Appeal and also been compelled to file Civil Application (ST) No.16184 of 2017 for leave to lead additional evidence.

4. The Applicants' case before me is that their cause before the Trial Court was not properly represented and they were not able to put forward all the evidence in their power and possession. While this may be true, there is another aspect that must be considered, and that is the impact of an interest claim on the State Government. In such land acquisition references, interest is typically awarded at one rate from the date of the notification under Section 4(1) of the Land Acquisition Act; at a slightly higher rate from the date of actual possession; and, if the amount awarded is not deposited within a period of one year, then at the rate of 15% p.a.

5. In a case such as this, it would be unfair to the State Government to expose it to the slightest risk of carrying the burden of interest from such long historical dates onwards if the matter is to be sent back to permit the Applicants to lead evidence. There would be no cause to expose the State Government to an interest burden beyond 11th April 2012.

6. Realising this, Mr Ingale has prepared an Affidavit affirmed by the 1st Appellant. The Affidavit is dated 16th June 2017 and it says it has been explained to the 1st Applicant in Marathi. In this Application, the 1st Appellant requests the matter be remanded to the Reference Court by restoring Land Acquisition Reference No.90 of 2008 and the Appellants permitted to lead evidence, and that,

given these facts, the Appellants/Applicants will not claim interest on the enhanced amount, if any, awarded, from 2012 onwards. This is only reasonable. The State Government hardly be accepted to pay interests for a period of time or loss of time for which it was in no way responsible. The Affidavit is taken on record in the First Appeal itself. The undertaking in the Affidavit is accepted as the undertaking to the Court.

7. The First Appeal is allowed and is disposed of in these terms:
 - (a) Land Acquisition Reference No.90 of 2008 is restored to the file of the Civil Judge, Senior Division, Sangli.
 - (b) The parties will appear before the Trial Court on 17th July 2017 with an authenticated copy of the order. The Trial Court will issue directions for filing of evidence and completion of the trial.
 - (c) The Trial Court is requested to complete the exercise at his earliest possible convenience.
 - (d) It is specifically clarified that the Appellants/original Claimants will be at liberty to lead additional evidence. Consequently, the State Government will be at liberty not only to cross-examine the Appellants but also to lead independent evidence of its own.
8. All rights and contentions are specifically kept open.

9. The First Appeal is disposed of in these terms with no order as to costs.

(G. S. PATEL, J.)