

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO.413 OF 1993
WITH
CIVIL APPLICATION NO. 3847 OF 2017
IN
FIRST APPEAL NO. 413 OF 1993**

Smt Muktabai Sudam Dangat & Ors. ...Applicants

IN THE MATTER BETWEEN

The State of Maharashtra
Through the Special Land Acquisition
Officer No. 17, Pune ...Appellant

Versus

Sudam Gangaram Dangat ...Respondent

.....

Mr. A.R.Patil, AGP for the Appellant/State in the First Appeal.
Mr. Kaustubh Thipsay for the Applicants.

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CORAM: MRS.MRIDULA BHATKAR, J.

DATE : 21ST DECEMBER, 2017.

P.C.:

1. The Applicants/original claimants, who are the original Respondents in the First Appeal, have moved the Application under Order 41 Rule 27 of the Code of Civil Procedure for bringing on

record documentary evidence i.e. certified copies of the sale instances of the adjacent lands.

2. Learned counsel for the Applicants/original claimants has submitted that the Applicants did not produce the certified copies of the sale instances in the trial Court. During the hearing of the First Appeal, the Applicants realized that it is necessary for them to produce the certified copies of the sale instances on which they want to rely. Hence, the Applicants moved the application before the Revenue Authority for obtaining the certified copies of the sale instances. After obtaining the certified copies of three sale instances, the Applicants moved this Civil Application seeking permission to lead additional evidence in Appeal under Order 41 Rule 27 of the Code of Civil Procedure.

3. Learned AGP for the State opposed this Civil Application mainly on the ground that the Applicants failed to show any good cause to allow this Civil Application. The Applicants further failed to show that they were diligent in acquiring the certified copies of the sale instances of the adjacent lands during the hearing of the land reference. Secondly, learned AGP objected the filing of this Civil

Application on the ground of delay. He has argued that the Cross Objections were filed in the year 1993 and since then, the Applicants did not bother to obtain the certified copies of the sale instances though they were aware about the questions of the sale instances of the respective lands. He has further argued that the Applicants were negligent though the fact of the sale instances was within their knowledge and hence, this Application is to be rejected.

4. Heard submissions. At the time of hearing, it is found that the learned Judge of the trial Court has taken into account the mutation entries. The Applicants have relied on the mutation entries and valuation mentioned therein. The certified copies of the sale instances were never produced before the Reference Court and, therefore, it is found necessary to produce the certified copies of the sale instances before this Court for proper adjudication of this Appeal on the point of valuation and the acquired lands. Therefore, though there is delay in producing the certified copies of the sale instances and it is found that the Applicants were not diligent in acquiring those certified copies at the stage of hearing of the land reference, I allow this Civil Application in terms of prayer clause (a), as per Order 41 Rule 27 (b) of the Code of Civil Procedure.

5. With this, Civil Application is allowed and is disposed of accordingly.

(MRIDULA BHATKAR,J.)