

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT NAGPUR**

CIVIL APPLICATION NO.1474 OF 2017
IN
FIRST APPEAL NO.190 OF 2005

Sanjaykumar s/o Parmanand
Maheshwari, Aged about 53 years,
Occu. Agriculturist and Business
r/o Umarkhed, Tahsil Umarkhed,
District Yavatmal, presently resides
resides at 121, Shivajinagar,
Nagpur 440 010

.. Applicant

Versus

The Collector, Yavatmal
and ors.

.. Respondents

Mr K.S. Narwade, Advocate for applicant
Mrs M.S. Naik, A.G.P. for respondents

CORAM : N.W. SAMBRE, J.

DATE : 17th April 2017

PER COURT

1. This is an application under the provisions of Order 41, Rule 27 of the Code of Civil Procedure by the original land owner-claimant seeking permission to produce on record additional evidence before this Court, while dealing with the appeal for enhanced compensation.

2. It is the case of the claimant that his land acquisition case was decided based on the evidence recorded in Land Acquisition Case No. 214 of 1994. According to him, the evidence led therein was accepted in all the cases decided together. The appellant then would urge that the award in the said case was declared on 17th February 1988. An

application on the same date i.e. 17th February 1988 came to be moved seeking apportionment.

3. Learned Counsel for the appellant would then urge that the record in the said original proceedings being Land Acquisition Case. 214/1994 having received before this Court and upon inspection was noticed that said application dated 17th February 1988 is not part and parcel of the record. In view of the same, the appellant has moved an application so as to produce the copy of the said application and other relevant document, viz. 7/12 etc., on record.

4. The said application is objected by learned Assistant Govt. Pleader who appears for Land Acquisition Officer on the ground that already this Court has decided similar matters and at the stage of final hearing, the application cannot be entertained. She would then urge that based on the available record and proceedings, the Court is required to decide the appeal on its own merits.

5. At the outset, it is required to be noted that the object of the land acquisition case is in the nature of passing on appropriate benefits to the land holders who are agriculturists or owners thereof. As such, the said piece of legislation would be termed as a welfare legislation.

6. In the said background, in my opinion, the opportunity as is sought seeking permission to produce additional evidence before this Court, though strenuously objected by the learned Assistant Govt. Pleader needs to be allowed.

7. As such, the application is allowed. The present record and proceedings be sent to the Civil Judge, Senior Division, Pusad who shall after giving opportunity to the acquiring body, the learned Land Acquisition Officer and the land owner before recording the evidence in the matter based on the documents, as are produced along with the present application. Record of this case along with present application be sent to Civil Judge, Senior Division, Pusad. The said exercise be completed within a period of four months from today.

8. The learned Civil Judge, Senior Division, Pusad, after dealing with the evidence produced in accordance with the provisions of Order 41, Rule 27 of the Code of Civil Procedure, shall forthwith remit the record and the evidence recorded, to this Court.

9. With above observations, Civil Application stands disposed of.

10. Place the matter for further consideration on 1st August 2017.

(N.W. SAMBRE, J.)

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