

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6135 OF 1999

1. Pandurang S/o. Vishwanath Birajdar,
Age : 36 years, Occ: Agri.,
R/o : Banegaon, Post : Talani,
Tq. : Ausa, Dist : Latur.
2. Sow. Sunanda W/o. Pandurang Birajdar,
Age : 32 years, Occ: Household,
R/o. As above.

Versus

1. The State of Maharashtra.
2. Special Land Acquisition Officer,
Latur, Dist. Latur.

Advocate for Petitioners : Mr. S.N. Patil.
AGP for Respondent Nos. 1 & 2 : Mr. S.K. Tambe.

CORAM : RAVINDRA V.GHUGE, J.
DATED : 09th August, 2018.

ORAL JUDGMENT :

1. After hearing the learned advocates of the respective sides on 19/07/2018, I had passed the following order :

"1. I have considered the submissions of the learned Advocate for the petitioners. He has placed reliance upon a judgment delivered by this Court (Coram : N.V.Dabholkar, J.) dated 26/04/2002 in CRA No.8/2002 to 17/2002, Rajendra Narsing Ghodke and others Vs. The State of Maharashtra and others, in support of his contention that the purported consent award was never an outcome of private negotiations. It is stated that there was no price fixation of the lands as well as the agricultural crops and / or trees. Blank spaces were left in

the award. Petitioner No. 1 alone had signed though petitioner No.2 is his legally wedded wife.

2. It is submitted in view of the judgment in Rajendra Narsing (supra) that the Collector should not have rejected the request for a reference to the LAR Court u/s 18 of the Land Acquisition Act for seeking enhancement in compensation as he is a mere forwarding authority and is not vested with the power to reject such a request.

3. The learned AGP graciously submits that he would make an attempt to keep the R & P in this matter available and would also collect information as to whether the LAR references of Rajendra Narsing and others, pursuant to the judgment of this Court dated 26/04/2002, have borne any fruits for the said applicants.

4. Considering the above position, stand over to 09/08/2018 at 2.30 p.m. for "passing orders", by consent of the parties."

2. The learned AGP submits that due to circumstances beyond his control, he could not lay his hands on the record and proceedings. He, however, submits that these petitioners had entered into a compromise award/award by consent under section 11 (2) of the Land Acquisition Act, 1894. Based on the said consent award, the compensation amounts were granted and have already been disbursed to these petitioners. It is, thereafter, that these petitioners have moved the District Collector for making a reference under Section 18, praying for enhancement in the compensation award.

3. There can be no dispute with the view of this Court in the judgment delivered on 26/04/2002 in Civil Revision Application No. 08/2002, **Rajendra Narsing Ghodke and others Versus The State of Maharashtra and others**, that the District Collector was only empowered to refer the application made by the claimants to the LAR Court under Section 18. He did not have the authority to reject the application on the ground that the Court fees are not paid or that certain documents are not attached. The District Collector should have referred the matter to the LAR Court which was competent to deal with the merits and the contentions of the litigating sides.

4. The learned AGP has further raised an issue as regards the quantum of interest, in the event the LAR proceedings of the petitioners are accepted. He submits that though the Collector has refused to refer the matter to the LAR Court, this petition was filed on 03/05/1999, after four years. Even when this petition was admitted on 19/04/2001 and Rule Nisi was expedited, the petitioners have not made an effort for an early hearing in the matter.

5. Learned counsel for the petitioners submits that he did make a request in November, 2003, and this Court has listed the matter for final hearing by order dated 01/12/2003, after the December vacations. He, therefore, prays for some interest at least from the date on which this petition was listed for final hearing.

6. Considering the above, this petition is allowed with the following directions :

(a) The petitioners are at liberty to move a Reference Application to the District Collector, Latur, within six weeks from today so as to be transmitted to the LAR Court.

(b) As this petition was listed for admission for the first time after December Vacations of 2003, these petitioners would be entitled for simple interest at the rate of 3% from January, 2003, till the passing of this order, in the event they succeed in their LAR proceedings under Section 18, purely on the enhanced compensation amount.

(c) From the date these petitioners make a fresh application before the District Collector, Latur, they would be entitled to regular interest component, if they succeed in getting enhancement in the said proceedings.

(d) All the contentions of the litigating sides including the contention of the acquiring body that a consent award was delivered, are left open to the LAR Court to consider them on their merits.

(e) Needless to state these petitioners would not be entitled for any interest component on the enhanced amount from July,

1995 till December, 2002.

7. Rule is made absolute in the above terms.

(RAVINDRA V.GHUGE, J.)

S.P.C.