

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

**CIVIL APPLICATION NO.1933 OF 2018
IN X-OBJST/3455/2018 IN FA 3879/2016**

LIMBAN SAKHARAM SONKAMBALE AND ANR.

VERSUS

THE STATE OF MAHARASHTRA THR COLLECTOR, LATUR AND ANR.

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Advocate for Applicants : Gundre Suraj V
AGP for Respondent nos.1 & 2: Shri A.M. Phule.

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CORAM: M.S. SONAK, J.

DATE: 16.02.2018

ORDER :

1] For the reasons set out in the Civil Application NO.1933/2018, delay is condoned and the civil application is disposed of.

2] Cross-Objections be taken on record and considered alongwith the First Appeal.

3] At the request of learned counsel for the parties, the First Appeal and the Cross-Objections are taken up for final disposal.

4] Since both the appellants and the respondents have grievance as regards the impugned judgment and order,

they request that the impugned judgment and order be set aside and the matter may be remanded to the Reference Court for fresh adjudication by affording all the parties to adduce fresh evidence in support of their respective cases.

5] Learned AGP points out that the Reference Court has not appreciated the evidence on record in its proper perspective and has not applied the correct principles in the matter of determination of compensation. Similarly, learned counsel for the respondents submits that in respect of acquisition of neighbouring properties, higher compensation amount has been awarded and, therefore, applying the principle of parity, similar compensation was due and payable in respect of the acquired land.

6] There is, however, no proper evidence on record and, therefore, it will be appropriate if the suggestion made by the learned counsel for the parties is accepted and the impugned judgment and award is set aside and the matter is remanded to the Reference Court for fresh adjudication.

7] The first appeal as well as the cross-objections are, therefore, partly allowed. There shall be no order

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as to costs. The impugned judgment and award made by the Reference Court is hereby set aside. The reference is remanded to the Reference Court for fresh adjudication in accordance with law and on its own merits. The Reference Court to permit both the parties to adduce fresh evidence and decide the matter on the basis of the same. All contentions of all the parties are kept open.

8] The Reference Court is directed to dispose of the reference within a period of one year from the date of production of authenticated copy of this order. The parties appear before the Reference Court on 12.3.2018 at 11-00 a.m. and produce authenticated copy of this order.

(M.S. SONAK, J.)