

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9068 OF 2016

Dilip S/o Devrao Lawate,
Age : 55 years, Occu. Agri.,
R/o Bansode Nagar,
Ambajogai Road, Latur,
Tq. & Dist. Latur

.. Petitioner

Versus

- 1] The State of Maharashtra
Through District Collector,
Latur, District - Latur
- 2] The Special Land Acquisition Officer,
Latur, Dist. Latur
- 3] The Executive Engineer, Railway
Department, Solapur

Proper Address :-

Deputy Chief Engineer,
{Construction}, Office of the Dy. C.E. (c)
Central Railway, Pune, Dist. Pune

.. (Original respondents -
Respondents no. 1 to 3)

- 4] Tukabai w/o Gulabrao Fulade,
Age : 65 years, Occu. Household
- 5] Nagarabai w/o Narayan Bande,
Age : 62 years, Occu. Household
- 6] Sunita W/o Shitalnath Kondekar,
Age : 45 years, Occu. Household,

Respondent No.4 to 6
R/o Harangul, Tq. and Dist. Latur

.. Respondents
(Orig. Claimants 4 to 6
Respondent 4 to 6)

...
Mr. S.V. Gundre, Advocate for petitioner
Mr. S.N. Morampalle, AGP for respondent-State
Mr. M.N. Navandar, Advocate for respondent no.3
Mr. S.B. Madde, Advocate for respondents no. 4 to 6
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 20-06-2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Heard learned counsel for the parties finally, by consent.
3. Aggrieved by order passed on exhibit - 54 in land acquisition reference no. 284 of 2003 pending before 2nd joint civil judge senior division, Latur dated 04-04-2016, the petitioner is before this court. Exhibit - 54 has been moved by the petitioner seeking amendment as have been referred to.
4. There is no dispute about the factual position that initially, reference had been filed by the petitioner for 35 *Are* land acquired by the acquiring authority. However, upon realizing that the petitioner, before notification under section 4 of the Land Acquisition Act, 1894, had been issued, had parted with 15 *Are* land, selling the same to different persons, he thought it fit to restrict the claim in reference to 20 *Are* land which had remained in

his ownership while the notification had been issued. Accordingly, amendment had been made in the reference application. Subsequently, it so happened that the purchasers from the petitioner got themselves impleaded as claimants in the land acquisition reference filed by the petitioner.

5. Apprehending that the purchasers may probably claim compensation which he may receive in respect of 20 *Are* of land retained under the ownership of the petitioner, he had moved application exhibit - 54 referred to above for re-instituting the deleted 15 *Are* land and making up claim under reference to entire 35 *Are* land acquired. Under application - exhibit 54, the petitioner had further claimed that the claim as appearing in the original reference filed making reference to Rs.100/- per square foot as the rate of land, the same may be allowed to be amended to Rs.200/- per square foot in accordance with the prevailing market conditions at the time of notification.

6. While the court has purportedly rejected the application, it has observed in paragraph no.9 of its order, thus,

" ९. मी प्रकरणाची पाहणी केली. सदर प्रकरण करतेवेळी अर्जदाराने स्वतः भूसंपादन अधिकाऱ्याकडे दि. ३.२.२००० ला असा अर्ज दिला होता की, त्याच्या ३५ गुंठे जमिनीपैकी त्याने १५ गुंठ्याचे प्लॉट्स इतर लोकांना विक्री

केली असून, सदरील प्लॉटची रक्कम त्या त्या व्यक्तींना अर्जदाराने संमती दिली आहे व अर्जदाराच्या मालकी व कब्जेतील २० गुंठे जमीन गेली आहे व हीच बाब त्याने परत दि. २१.१२.१९९९ च्या पत्रातसुद्धा कथन केलेली आहे. यावरून अर्जदार स्वतः कबुल करतो की, त्याची फक्त २० गुंठे जमीन भूसंपादित झाली आहे व १५ आर. जमीन इतर लोकांना विकली आहे. त्यामुळे ते प्लॉट धारक भूसंपादन जमिनीचा वाढीव मावेजा मिळण्याचा अर्ज दाखल करण्याची शक्यता नाकारता येत नाही व अर्जदाराने जमिनीचा वाढीव मोबदला मागितलेला आहे व जर, पुराव्यात अर्जदाराने मागणी केल्या प्रमाणे वाढीव मोबदला मिळण्यास तो पात्र असेल तर न्यायालय तसा वाढीव मोबदला अर्जदाराला देऊ शकतो व त्याच्या कडून राहिलेले मुद्रांक शुल्क वसूल करू शकते. "

7. In the circumstances, having regard to the observations which have been reproduced hereinabove, instead of leaving the matter to probability, as the purchasers are contended to be already claimants in the reference filed by petitioner, the amendment of re-institution of 15 *Are* land would be relevant. It may be expedient for the parties to let assert the claim with regard to rate as desired, since it is their responsibility to establish the same. It is matter of evidence. In such a case, amendment in respect of the same may not be declined on technical reasons.

8. As such, eschewing all the technical and procedural requirements, it would be expedient to allow the application.

9. In view of aforesaid, impugned order on exhibit - 54 dated 04-04-2016 passed by 2nd joint civil judge senior division, Latur is set aside and application exhibit - 54 stands allowed.

10. Writ Petition stands disposed of.

11. Rule made absolute accordingly.

[SUNIL P. DESHMUKH]
JUDGE

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