

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD***

CIVIL REVISION APPLICATION NO. 221 OF 2018

Dnyaneshwar s/o Venkatswami Naidu ... Applicant

Versus

Laxman s/o Lingayya Burawar ... Respondent

Mr. E.S. Murge, Advocate for the Applicant.

Mr. V.V. Ingale, Advocate for the Respondent.

Coram : N.M. Jamdar, J.

Date : 18 December 2018.

Per Court :

1. By this revision application, the applicant has challenged the order passed by the learned Civil Judge, Senior Division, Omerga dated 5 July 2018, deciding the reference for apportionment of the amount under Section 3H(4) of the National Highway Act, 1956.

2. The act does not provide for any appeal and therefore, the applicant has approached in revision before this Court. The contours of revisional jurisdiction are well settled and cannot be confused with

an appellate jurisdiction.

3. Few admitted positions need to be noticed. The property earlier belonged to the family of the applicant. It is the case of the respondent that the respondent has purchased the the property vide sale-deed dated 14 September 1993. There is no challenge to the sale-deed. The dispute raised by the applicant is two-fold. Firstly, that the sale-deed dated 14 September 1993 does not pertain to the land in question and secondly, the structure put up on this land does not belong to the respondent. It is also the contention of the applicant that when the applicant withdrew the amount of compensation of the land, the same has not been objected.

4. As far as the sale-deed dated 14 September 1993 is concerned, the same is the foundation of the claim of the respondent. If it was the case of the applicant that the boundaries in the sale-deed do not match, it was expected that a detailed cross-examination of the respondent on this aspect would be conducted. Except stating that the boundaries do not match, there is nothing on record elaborating this aspect. The learned Civil Judge has noted the submission regarding boundaries in paragraph no. 7 of the impugned order. The learned Civil Judge upon comparison of the sale-deeds has found that

if the sale-deeds are read together then it is established that the claimants have purchased the said plot. This finding of fact for lack of any cogent material to overwhelm the same, cannot be disturbed in revisional jurisdiction. The burden would then shift on the applicant to demonstrate as to how the structure upon the said land belongs to him. It is not the case of the applicant that the structure independently has been given to him on tenancy basis or otherwise. As regards the structure, the argument is the same i.e. ownership of the land. Once the ownership of the land has been confirmed by evaluating the boundaries, then for lack of any cogent material showing ownership of the structure or title of the structure, the finding that the respondent is entitled to receive the compensation amount becomes a plausible view of the matter. There is no error of jurisdiction committed by the learned Civil Judge. Revision application is accordingly dismissed.

4. At the request of learned counsel for the applicant, *ad interim* order passed in this revision application is continued for a period of six weeks from today.

N.M. Jamdar, J.