

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

CIVIL REVISION APPLICATION NO. 106 OF 2019

Ambarsing Ramchandra Rajput ... Applicant

Versus

The State of Maharashtra and another ... Respondents

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Mr. D. A. Bide, Advocate for applicant.

Mr. P. M. Kulkarni, AGP for respondent-State.

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CORAM : R. G. AVACHAT, J.

DATED : 15th OCTOBER, 2019

PER COURT :-

1. Heard learned counsel for the parties.
2. This revision application has been filed for setting aside the judgment and order dated 03.03.2018 passed by the Court of Civil Judge, Senior Division, Vaijapur, in Land Acquisition Reference (L.A.R.) No.690 of 2010. By the impugned order, the L.A.R. has been dismissed.
3. The land of the applicant was acquired by the respondents for the purpose of construction of village tank. Pursuant to the land acquisition award, the applicant has received the amount of compensation under protest and challenged the said award by filing

Reference under Section 18 of the Land Acquisition Act, 1894. The Reference Court dismissed the Reference by judgment and order dated 03.03.2018.

4. Learned counsel for the applicant, would submit that the applicant could not remain present before the Reference Court to lead the evidence for enhancement of compensation. Learned Advocate representing the applicant before the Reference Court did not intimate him that the matter was posted for recording of evidence. It was also submitted that the land reference was initially pending before the Court, at Aurangabad. On establishment of Civil Judge, Senior Division at Vaijapur the Reference came to be transferred to the Court at Vaijapur. In short, the learned counsel for the applicant mean to say that, without affording the applicant proper opportunity to lead evidence, the Reference has been decided.

5. The learned AGP supports the impugned order.

6. The land Reference was initially pending before the Court of Civil Judge, Senior Division at Aurangabad. The same came to be transferred to the Court of Civil Judge, Senior Division at Vaijapur on establishment of the said Court. Perusal of the impugned judgment indicates that the applicant remained absent to lead evidence in support of his claim for

enhancement of the compensation. The Court, therefore, dismissed the land Reference.

7. I found substance in the contention of the learned counsel for the applicant, that on transfer of the land Reference from the Court at Aurangabad to the Court at Vaijapur, the learned Advocate representing the applicant in the said matter did not inform him that the matter was fixed for recording of evidence. In view of this, an opportunity needs to be given to the applicant to lead evidence.

8. In the result, the revision application deserves to be allowed.

ORDER

- (i) The civil revision application is allowed.
- (ii) The judgment and order dated 03.03.2018 passed by the Civil Judge, Senior Division, Vaijapur in L.A.R. No.690 of 2010 is set aside.
- (iii) The matter is remanded back to the Court of Civil Judge, Senior Division, Vaijapur.
- (iv) The applicant shall appear before the Court of Civil Judge, Senior Division, Vaijapur, on 25.11.2019.

[R. G. AVACHAT, J.]