

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11721 OF 2018

SURAJ VIJAYSING JADHAV AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. A.M. Hajare.
AGP for Respondent Nos. 1 to 3 : Mr. S.W. Munde.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 23.01.2019.

PER COURT :

1. The petitioners are aggrieved by the order dated 19.07.2018, passed by the LAR Court, by which, application Exhibit 22 filed by these petitioners in LAR 132/2011, seeking an amendment, has been rejected.
2. I have heard the learned advocate for the petitioners and the Learned AGP on behalf of respondent Nos. 1 to 3, at length.
3. There is no dispute that the office of the Special Land Acquisition Officer, Krishna Valley, Nanded, received a claim for enhancement in compensation under Section 18 of the Land Acquisition Act, 1894, on 09.03.2009. Besides the land, compensation for several fruit bearing trees and teak trees have been asked for. The claims have been set out in paragraph No. 14 by these petitioners.
4. Application Exhibit 22 has been filed on 13.06.2017, which is

practically after about eight years of the lodging of their claims. It is prayed in Exhibit 22, that these petitioners had under valued the market value of their various trees and the appropriate valuation has now been submitted. The Trial Court has rejected the application on the ground that it has been filed after eight years and appears to have been based on the recent valuation than the actual valuation which dates back to the claim, which was made for enhancement in March, 2009.

5. Learned advocate for the acquiring body has strenuously opposed this petition on the ground that Exhibit 22, suffers from delay and laches. These claimants slept over the LAR proceedings and in the year 2017, are now enhancing their claims for compensation on the ground that the valuation mentioned in the year 2009 was below the market value. He, further, submits that these petitioners are taking advantage of the passage of time and the public exchequer will have to bear the burden of paying, as the enhancement has been sought after a delay of eight years. In the alternative, he submits that the petitioners be deprived of the interest component, if their claims of amendment are accepted for the amounts, which would be the difference between the earlier averments made in the year 2009 and the averments made by the amendment.

6. I had find an element of advantage which these petitioners would

get, if their amendment is allowed after eight years. However, it cannot be ignored that they are agriculturists, who have lost their lands and fruit bearing trees in an acquisition by the acquiring body for a public project. They have lost their lands and should receive compensation, which is commensurate with the compensation liable to be paid in accordance with the provisions of the Land Acquisition Act, 1894. Equities could be balanced by depriving these petitioners of the interest component with reference to the fruit bearing trees.

7. In view of the above, this petition is partly allowed. The impugned order dated 19.07.2018, is quashed and set aside and Exhibit 22 is allowed on the following conditions :

(a) These petitioners shall carry out the amendment on/or before 28.02.2019, and shall submit a freshly typed copy of the plaint on the same date, without seeking an adjournment.

(b) In the event, the LAR Court grants enhancement with reference to the land and the fruit bearing teak trees, the interest component in so far as the fruit bearing and teak trees are concerned, would not be paid to the petitioners for the period of eight years up to the year 2017, only with relation to the difference in the claims as were earlier made in the year 2009, and those which are now sought to be introduced by the amendment.

(c) All the litigating sides are permitted to lead

additional evidence, if they have already led evidence.

(d) Needless to state, the acquiring body is permitted to file an additional written statement to oppose the amendment portion in the claim.

(e) The petitioner shall deposit deficit Court fees, if any, within eight weeks from today.

(RAVINDRA V. GHUGE, J.)

S.P.C.