

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL APPLICATION (REVIEW) NO. 19 OF 2015
IN
FIRST APPEAL NO. 161 OF 2003

Dy. Collector & SDO, Ponda
Sub Division & Anr. ... Applicants
Versus
M.R.F. Limited, Thr. its Plant Manager ... Respondent

Mr. Sagar Dhargalkar, Additional Government Advocate for the Applicants.
Mr. J. Coelho Pereira, Senior Advocate with Mr. Somnath Karpe Advocate for the Respondent.

CORAM : C.V. BHADANG, J.

Reserved on : 16th April, 2019

Pronounced on : 18th April, 2019

ORDER:

By this application, the applicants are seeking review of judgment and order dated 21.11.2014, passed by this Court in First Appeal Nos. 161/2003 and 188/2003 (M.R.F. Limited Vs. Dy. Collector & S.D.O. & Another). By the said judgment, First Appeal No. 188/2003, filed by the applicants was dismissed, while First Appeal No. 161/2003 filed by the respondent was partly allowed, granting compensation of the acquired land at the rate of Rs.106/- per square metre.

2. The brief facts are that by virtue of notification under Section 4(1) of the Land Acquisition Act, 1984 (Act, for

short) dated 08.01.1991, several lands were acquired for the purpose of widening of a national highway no. 4-A. The acquisition included a land admeasuring 17,115 square metres from survey nos. 253/1, 253/2, 254, 251/1, 255/3 and 258 of village Usgao of Ponda Taluka, belonging to the respondent.

3. The Land Acquisition Officer (LAO) vide award dated 15.03.1991, classified the land under survey nos. 253/1, 254, 255/1, 255/2, 255/3 and 258 as bharad land and awarded compensation at the rate of Rs.25/- per square metre. The land bearing survey no. 253/2 was classified as cashew garden and compensation at the rate of Rs.15/- per square metre was awarded. Feeling aggrieved, the respondent raised a reference under Section 18 of the Act being Land Acquisition Case No. 18/1999.

The Reference Court, by a judgment and award dated 28.02.2003 granted compensation at the rate of Rs.35/- per square metre alongwith all statutory benefits. Both the applicants and the respondent challenged the said award before this Court in which, by a common judgment dated 21.11.2014, this Court has granted compensation at the rate of Rs.106/- per square metre.

4. I have heard Mr. Dhargalkar, the learned Additional Government Advocate for the applicants and Mr. Pereira, the learned Senior Counsel for the respondent.

5. Mr. Dhargalkar, the learned Additional Government Advocate for the applicants has raised two contentions:

(i) That in First Appeal Nos. 155/2006, 157/2006 and 107/2009, the compensation at the rate of Rs.31.50 per square metre was granted and these appeals arise out of the selfsame notification under Section 4 of the Act. It is thus submitted that the compensation awarded by this Court is in excess of what is granted in these appeals.

(ii) That in First Appeal No. 93/2007 (Dy. Collector & SDO, Ponda Sub Division & Another Vs. Bhaskar Vithal Sinai Wagale), the Reference Court had enhanced the compensation to Rs.30/-, which has been confirmed by this Court as well as the Supreme Court and thus, there is an error apparent on the face of the record in the judgment, in which, this Court had granted compensation at the rate of Rs.106/- per square metre.

6. Mr. Pereira, the learned Senior Counsel for the respondent has supported the impugned judgment. It is submitted that there is no error apparent on the face of the

record. It is submitted that the judgment in First Appeal No. 93/2007 (Dy. Collector & SDO, Ponda Sub Division & Another Vs. Bhaskar Vithal Sinai Wagale), has been considered by this Court and thus, the applicants under the garb of review cannot agitate the said issue again. It is submitted that First Appeal Nos. 155/2006 and 157/2006 were decided before the Lok Adalat and even, the judgment in First Appeal No. 107/2009 is based on the award passed before the Lok Adalat in First Appeal No. 155/2006 and in the absence of any adjudication therein, the applicants cannot rely on the same for seeking review.

7. I have carefully considered the circumstances and the submissions made and I do not find that there is any error apparent on the face of the record in the judgment under review.

8. First Appeal Nos. 155/2006 and 157/2006 were decided before the Lok Adalat, wherein the claimants had agreed for the rate of Rs.31.50/- per square metre, which cannot bind the other owners, whose lands are acquired. First Appeal No. 107/2009 is decided on the basis of the award of the Lok Adalat in First Appeal No. 155/2006. This Court in para 15

of the judgment under review has considered the award passed by the Reference Court in the case of Bhaskar Vithal Sinai Wagale Vs. Deputy Collector & Another i.e. Land Acquisition Case No. 62/2005, in which, the land admeasuring 133 square metres from out of survey no. 42/8 of village Curti was acquired. The Reference Court fixed the compensation at the rate of Rs.30/- per square metre, which was not carried any further at the instance of the claimant. The State challenged the same before this Court and thereafter, before the Supreme Court, wherein the order of the Reference Court, was confirmed. This Court has *inter alia* taken note of the fact that the area acquired was only 131 square metres. Thus, the submission based on the decision in First Appeal No. 93/2007 (Dy. Collector & SDO, Ponda Sub Division & Another Vs. Bhaskar Vithal Sinai Wagale) has already been considered by this Court and under the garb of review, the applicants cannot seek reconsideration of the same. The civil review application is without any merit and is accordingly dismissed, with no order as to costs.

C.V. BHADANG, J.

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