

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2541/2015
IN
FIRST APPEAL (ST)NO.8657/2013

The State of Maharashtra Applicant.
Vs.
Raghunath S. Kanekar ... Respondent.
AGP Mrs.Geeta Mulekar for applicant.

CORAM : K.K.TATED, J.
DATED : AUGUST 16, 2019.

P.C.

Heard learned counsel for applicant.

2 By this civil application, applicant is seeking condonation of 59 days delay in filing first appeal, challenging Judgment and Award dated 4.9.2012 passed by reference Court in LAR No.46/2003, holding that, the respondents/claimant is entitled additional compensation of Rs.16,037/- in respect of acquired land.

3 Learned AGP Mrs.Geeta Mulekar appearing on behalf of applicant submits that, in present proceeding Special Land Acquisition officer issued Notification u/s 4 of the Land Acquisition Act (hereinafter referred as 'said Act') dated 31.12.1998 for acquiring Respondent/claimant's land situated at village- Kalsuli, Taluka-Kankavali, District- Sindhudurg, for Dedonwadi for Minor Irrigation Scheme. After following due process of law the Land Acquisition

Officer declared award u/s 11 of the said Act dated 10.5.2001 and awarded compensation. Being aggrieved by the said award, Respondent/claimant preferred Reference u/s 18 of the said Act on 5.4.2002 and claimed enhanced compensation of Rs.16,037/-. She submits that the Reference Court by impugned judgment held that Respondents are entitled additional compensation in respect of acquired land.

4. Learned AGP Mrs. Mulkar for applicant submits that at the time of awarding additional compensation, the reference court has not considered sale instances on record. She submits that the compensation awarded by the reference court is on higher side. She submits that they have good chance of success in First Appeal. She submits that, Hon'ble Court be pleased to condone the delay and matter be decided on its own merits.

5. It is to be noted that in present proceeding, the State of Maharashtra acquired Respondents land to the extent of . 00 Hector 20.3 Ares. The reference court after considering the evidence on record held that, claimants are entitled additional compensation of land to the extent of Rs.16037/- only. It is to be noted that the Apex Court in the matter of **Airports Authority of India Vs. Satyagopal Roy & Ors. (2002)3 SCC 527** held that considering the small amount of compensation awarded to the claimants, normally Court should not interfere in such matters. Para 15 and 16 of that authority reads thus;

"15.However, it is true that this Court in State of

Madras v.Rev.Brother Joseph [AIR 1973 SC 2463] refused to interfere with the award on the ground that the compensation awarded was meager. Similarly, in Special Land Acquisition Officer, Malaprabha Dam Project, Saudatti and others v.Madivalppa Basalingappa Melavanki and Others [(1995)5 SCC 670] this Court refused to interfere where compensation was determined on the basis of annual yield of agricultural land by application of 15 years multiplier on the ground that the small area of land was acquired and approved the order of the High Court in which it was observed that "it is hardly appropriate to interfere with the award notwithstanding the discernible blemish pointed out by the learned Government Pleader" and also held thus:

"However, it would not operate as a precedent to any future case or other cases arising from the same notification. All cases need to be decided applying only 10 years multiplier."

16. In the present case also, considering the small amount of compensation awarded to the claimants we do not think that this would be a fit case for interference in this appeal. Hence, the appeal is dismissed with no order as to costs."

6. Considering the Judgment of Apex Court cited supra, I am of the opinion that there is no question of allowing the Civil Application on the ground of meager amount only.

7. Hence, the following order.

a) Civil Application stands rejected.

(K.K.TATED, J.)

