

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CIVIL WRIT PETITION NO.14505 OF 2018**

Sonyabai Jadhav & ors

.. Petitioners

vs

State of Maharashtra & ors

Respondents

Mr.Pratik Rahade for Petitioners
For speaking to Minutes of order.

Coram : K.K.TATED, J
Date : 24th JANUARY 2019

P.C

Advocate for the petitioner has filed a praecipe for speaking to minutes of order dated 18.1.2019.

2. At his request, matter is taken on board for urgent orders.
Following corrections be made in the order dated 18.1.2019.

(i) In para no.1, land Reference No.259 of 2003' be read as '93/2000' and date of judgement and award instead of '27.01.2012' be read as '19.11.2011'.

(ii) In para 2 line no.17 the date of the Application mentioned as '09.02.2015' instead it should be '17.11.2017'. Similarly, in line no.19 the date of the Award is mentioned as '27.01.2012' instead should be '18.11.2011'. In para no.6 clause 'b' the date of the application is typed as '09.02.2015' instead should be '17.11.2017.'

Rest of the order remains as it is.

Corrected order dated 18.1.2019 reads thus :

The original order shall stand corrected accordingly.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14505/2018

Sonyabai Bapu Jadhav & Ors

.. Petitioners

VS

State of Maharashtra & Ors

Respondents

Mr.Pratik Rahade for the Petitioners

Mr.R.P.Kadam, AGP for the Respondent State

CORAM : K.K.TATED, J

DATE : JANUARY, 18,2019

P.C

1. Heard. By this petition under Article 227 of the Constitution of India, the Petitioner challenges the order dated 17.08.2018 passed by the Civil Judge, Senior Division, Nasik below Exhibit-1 in Land Reference Miscellaneous Application No.15/2007 rejecting the Petitioner's Application for carrying out amendment in Land Reference No.93/2000 and the judgement and award dated 18.11.2011.

2. The learned counsel for the Petitioner submits that in the present proceedings, the Respondent has acquired their land by following due process of law under the Land Acquisition Act, 1894. He further submits that the Land Acquisition Officer has passed award dated 15.07.1996 and awarded the compensation in respect of the acquired land. He further submits that in the award, the Petitioner no.2's name was shown as Bibabai Chandu Dahale. The

learned counsel for the Petitioner submits that while making Reference u/s 18 of the Land Acquisition Act, 1894, the Respondent State wrote incorrect name of Petitioner No.2 in LR No.93/2000. He further submits that while making the Reference u/s 18 of the Land Acquisition Act, 1894 the Respondent show the name of Respondent no.2 Bibabai Chandu Ughade. He submits that these facts were learnt by the Petitioner at the time of withdrawal of the amount. Hence, the Petitioner immediately made an application before the Trial Court on 17.11.2017 for carrying out amendment in the cause title of LR No.17.11.2017 and also the judgement and award dated 18.11.2011 passed by the Reference Court. He submits that the trial Court has rejected their Application for carry out correction only on the ground that the claimant has not filed any documentary evidence except affidavit to prove their contention,. He submits that the Trial Court has held that the claimants have to file a heirship certificate or succession certificate to show their claim. He submits that the Trial Court has failed to consider the fact that the Award by the Special Land Acquisition Officer shows the correct name however, while filing the Reference u/s 187 it is shown incorrectly. According to him therefore, there is no question of bringing any heir ship certificate.

3. The learned counsel for the Petitioner submits that the Respondent State has also filed Affidavit-in-Reply. He submits that

along with the Affidavit in Reply, a copy of award passed by the Land Acquisition Officer is annexed. He submits that in the said award , Petitioner no.2's name is correctly shown as Bibabai Chandu Dahale. He submits that in view of these facts, this Hon'ble Court be pleased to set aside the impugned order dated 17.08.2018 and allow the Petitioner's Application below Exhibit-1 in LRMA No.15/2007 directing the trial Court to carry out amendment in LR No.93/2000 and also award dated 18.11.2011. He submits that if the Writ Petitioner is not allowed, irreparable loss will be caused to them.

4. On the other hand, the learned AGP for the Respondent/State submits that as per his instructions received from the concerned Officer, and after perusing the award passed by the Land Acquisition Officer, the name of Petitioner No.2 is incorrectly shown in LAR and also in the judgement. Hence, they have no objection if the Writ Petition is allowed.

5. Considering the submissions made by the learned AGP and the copy of award passed by the Land Acquisition Officer, I am satisfied that the Petitioner has made out a case for allowing the Writ Petition.

6. Hence, the Writ Petition is allowed as under :

- a. Order dated 17.08.2018 passed by the Civil Judge, Senior Division, Nashik in LRMA No.15/2007 is set aside.
- b. The Petitioner's Application dated 17.11.2017 u/s 152 of the Code of Civil Procedure, 1908 being Exhibit-1 in LRMA No.15/2007 is allowed.
- c. The Petitioner to carry out appropriate amendment in LR No.93/2000 and award dated 18.11.2011 showing the name of Petitioner No.2 Smt.Bibabai Chandu Dahale instead of Bibabai Chandu Ughade.
- d. The Trial Court to carry out amendment within 8 weeks from the date of receipt of certified copy of the order and/or writ from the Registry of this Court.
- e. Writ Petition stands disposed of accordingly.
- f. No order as to costs.

Correct order be uploaded on server of the Court.

(K.K.TATED, J)