

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CIVIL REVISION APPLICATION NO.31 OF 2019

(Manohar Balaji Zade Vs. M/s Karnataka Emta Coal Mines Ltd. A company incorporated under the Indian Companies Act, Dist. Nagpur and another)

CIVIL REVISION APPLICATION NO.32 OF 2019

(Matruprasad Budhhuram Gupta Vs. M/s Karnataka Emta Coal Mines Ltd. A company incorporated under the Indian Companies Act, Dist. Nagpur and another)

CIVIL REVISION APPLICATION NO.33 OF 2019

(Prabhavati Manohar Zade Vs. M/s Karnataka Emta Coal Mines Ltd. A company incorporated under the Indian Companies Act, Dist. Nagpur and another)

CIVIL REVISION APPLICATION NO.34 OF 2019

(Suresh Dadaji Pidurkar Vs. M/s Karnataka Emta Coal Mines Ltd. A company incorporated under the Indian Companies Act, Dist. Nagpur and another)

CIVIL REVISION APPLICATION NO.35 OF 2019

(Radhabai Dadaji Pidurkar Vs. M/s Karnataka Emta Coal Mines Ltd. A company incorporated under the Indian Companies Act, Dist. Nagpur and another)

CIVIL REVISION APPLICATION NO.36 OF 2019

(Sunil Manohar Zade Vs. M/s Karnataka Emta Coal Mines Ltd. A company incorporated under the Indian Companies Act, Dist. Nagpur and another)

CIVIL REVISION APPLICATION NO.37 OF 2019

(Dadaji Sakharam Pidurkar Vs. M/s Karnataka Emta Coal Mines Ltd. A company incorporated under the Indian Companies Act, Dist. Nagpur and another)

*Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's Orders.*

Court's or Judge's orders.

 Mrs. R.S. Sirpurkar, Advocate for Applicant.

CORAM: ROHIT B. DEO, J.

DATE: 15th APRIL, 2019.

Heard.

2] These revisions seek to assail the order dated

14.12.2018 rendered by the Civil Judge, Senior Division, Warora in Land Acquisition Cases 19/2012, 01/2012, 14/2012, 18/2012, 16/2012, 17/2012, and 15/2012.

3] The order impugned, by and under which the reference under section 18 of the Land Acquisition Act, 1894 ('Act' for short) is rejected, is predicated on the failure of the applicant – claimant to adduce evidence.

4] Mrs. Sirpurkar would submit that the order is not an award within the meaning of section 26 of the Act, and therefore, the remedy of appeal under section 54 of the Act is not available. Mrs. Sirpurkar would rely on the decisions of this Court in *Mangilal Jawanmal and others v. The Spl. Land Acquisition Officer (I), Thana* reported in 1978 AIR (Bombay) 325, *Kawadu s/o Madhav Bansod v. State of & Anr.* reported in 2004(1) ALL MR 651, *Namdeo s/o Dharmaji Bawankule v. State of Maharashtra & Anr.* reported in 2007(4) ALL MR 263 and *Subhash s/o Babulal Rajput v. The State of Maharashtra & Anr.* reported in 2012(1) ALL MR 42.

5] In view of the consistent enunciation of law by this Court, I proceed on the premise that the order impugned is not appealable.

6] However, the seminal question is whether revision under section 115 of the Code of Civil Procedure is

maintainable in the teeth of the provisions of section 115 of the CPC which read thus:

115. Revision.— [(1)] *The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—*

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case it thinks fit:

[Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding except where the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings.]

[(2) The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.

[(3) A revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court.]

Explanation.— *In this section, the expression,*

“any case which has been decided” includes any other made, or any order deciding an issue, in the course of a suit or other proceeding.]

7] It is not even argued by Mrs. Sirpurkar that if the revision is allowed the reference would be finally disposed of. In my opinion, while the appellate remedy may not be available, in view of the unambiguous provisions of section 115 of the CPC the remedy of revision is misconceived. The fact that this Court has, even after the amendment to section 115 which has come into effect from 01.07.2002, entertained civil revision application does not take the case of the applicants any further. The issue was not raised and therefore, not considered by this Court while entertaining the civil revision application.

8] At this stage, the learned counsel Mrs. Sirpurkar seeks leave to withdraw these civil revision applications with liberty to invoke writ jurisdiction.

9] These civil revision applications are disposed of as withdrawn with liberty to the applicant to initiate appropriate proceedings.

JUDGE