

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7893 OF 2020

Naziya Ilahi Khonde
Age- 55 years, Occ- Household
and Agri., Through GPA Holder
Ilahi Jilani Khonde
R/o. Bhagyanagar, Osmanabad,
Taluka & District- Osmanabad.

...PETITIONER

VERSUS

1. D.S. Dhotre
Competent Authority,
Reliance Gas Transportation
Infrastructure Ltd., 14/B
Nira Pamp Society, Vaijapur Road,
Solapur, District- Solapur.
2. The Managing Director,
Public Gas Transport,
Infrastructure Ltd.,
Reliance Corporate Part Project
B-Wing, II nd Floor, Thane,
Belapur Road, Ghansali,
New Mumbai.

...RESPONDENTS

Mr. Arvind Deshmukh, Advocate for Petitioner.
Mrs. C.S. Deshmukh, Advocate for Respondent No. 2.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th FEBRUARY, 2022

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard with the consent of parties.

2. The Petitioner is aggrieved by the order passed by learned Ad-hoc District Judge-1, Osmanabad below Exhibit-24 in M.A. No. 245/2013, thereby rejecting the application filed by the Petitioner for appointment of Court Commissioner.

3. The Petitioner is owner and possessor of land Gut No. 400, admeasuring 2 Hectare 90R, to the extent of 74R situated at Osmanabad. The suit land came to be acquired by Respondent No. 2 and pipe line was laid in the suit property. After completion of work of laying down of pipe line, according to the Petitioner, the suit property has become barren and Petitioner is unable to cultivate the same and hence sustained losses. The Petitioner therefore, filed Civil M.A. No. 245/2013 seeking enhancement of compensation. In the said proceeding application Exhibit-24 was filed seeking appointment of advocate as a Court Commissioner to see whether the respondents after

digging out the soil, murum from the digging place, spread it over throughout the field . The application was resisted by respondents. The Trial Court dismissed the application.

4. Admittedly, the work of acquisition of portion of suit property and laying down of pipe line was completed in the year 2007-08. The actual owner of the suit property was one Shyam Gulab Pathan. When the suit property was acquired notices were issued to him and the amount of compensation was also paid to him. According to the respondents, Mr. Pathan has withdrawn the compensation voluntarily and happily without any objection or protest. After receipt of amount Mr. Pathan has given no objection certificate regarding compensation amount and restoration of land. After completion of work of laying down pipe line, the portion where the pipe line was laid down, its position was restored by the respondents. Panchnama to that effect are prepared. The Petitioner purchased the suit property on 21.08.2007.

5. Award came to be passed in the year 2011 and the Petitioner filed Miscellaneous Application in the year 2013 for

enhancement of compensation. After filing claim for enhancement after four years, the Petitioner has filed the present application seeking appointment of Court Commissioner. The Petitioner has to prove his case for enhancement of compensation and he cannot collect evidence with the help of Court by appointing Court Commissioner.

6. The Trial Court has recorded a finding that the work of laying down pipe line is completed long back in the year 2007-08 and it is for the Petitioner to bring actual facts on record from the competent authority. It is not permissible to Petitioner to collect evidence with the help of Court.

7. In the facts of the present case, the Trial Court is justified in rejecting the application filed by the Petitioner. There is no illegality or perversity in the order impugned in the present petition. The writ petition being devoid of merit, stands dismissed. Rule stands discharged.

[NITIN B. SURYAWANSHI]
JUDGE