

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

CIVIL APPLICATION (O) NO. 317 OF 2022
IN
MISC. CIVIL APPLICATION (REVIEW) NO. 645 OF 2021
IN
WRIT PETITION NO. 1984 OF 2017 (D)

Pralhad s/o. Tukaram Jagtap (Dead) through LR's vs. Executive Engineer
and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Vishnu Gawali, Advocate for applicant.
Ms. Ashwini Athalye, Advocate for non-applicants.

CORAM : MANISH PITALE J.

DATE : 02/05/2022

This is an application seeking substitution of legal representatives of the original applicant in the review application. It is brought to the notice of this Court that on 06/02/2022 during pendency of the review application, the original applicant died. The learned counsel appearing for the original applicant has instructions to appear for the said legal representatives.

2. Hence, for the reasons stated in the application, the same is allowed. The legal representatives of original review applicant, details of whom are given in paragraph 2 of the application are

permitted to be brought on record. Amendment to be carried out forthwith.

**MISC. CIVIL APPLICATION (REVIEW) NO. 645 OF
2021**

By this review application, the applicant now represented through legal representatives, is seeking a modification of the order dated 07/01/2019 passed by this Court in Writ Petition No. 1984 of 2017. The review applicants submit that while the application for amendment of the reference petition was granted, it was directed that the applicants shall not be entitled for interest on the enhanced amount of compensation payable to the petitioner, if any, for the period from the date of filing of the reference petition i.e. 15/12/2015 till the date of the order disposing of the writ petition i.e. 07/01/2019.

3. It is submitted that amendment was sought on behalf of the applicants to place on record, three valuation reports pertaining to the valuation of fruit trees, forest trees and a well in the land in question. It was also brought to the notice of this Court that in a number of judgments and orders passed by this Court in similar cases, amendments

were allowed and no such observation was made regarding the petitioners in such cases of being deprived of interest on the enhanced amount of compensation.

4. The judgments and orders brought to the notice of this Court are dated 23/10/2018, passed in Writ Petition No.775 of 2017, **(Narayan s/o Kisan Chopade and another vs. Executive Engineer and others)**, and judgment and order dated 24/11/2018, passed in Writ Petition No.1020 of 2017 **(Haridas S/o. Ramji Jadhao vs. Executive Engineer and others)**, as also other such judgments and orders passed in the cases of petitioner identically situated like the review applicants before this Court.

5. The learned counsel appearing for the petitioner submitted that this Court could pass appropriate orders in the matter.

6. This Court has considered the contentions raised in the review application. It appears that in the cases of identically situated persons like the applicants, this Court while permitting amendment of the reference petition, did not make any observation about depriving the petitioners therein of the interest on enhanced amount of compensation, if any.

7. This Court is of the opinion that the amendment of writ petition is allowed only to give an opportunity to the applicant (original claimant) to place on record relevant material for determination of just and fair compensation payable to the applicant. Such material would assist the reference Court to come to appropriate conclusion as regards the claim made on behalf of the applicant about the valuation of the fruit trees, forest trees and a well which has been subject matter of acquisition. This Court allowing the petition and permitting amendment of the reference petition indicates that opportunity was granted to the applicants to place on record relevant documents before the reference Court. This Court is informed that in pursuance of the aforesaid order dated 07/01/2019 passed in Writ Petition No.1984 of 2017, the rival parties have already led evidence and the reference Court would now be determining the amount of enhanced compensation, if any, payable to the applicant.

8. Considering that in identical circumstances, this Court has not made any observation about depriving the petitioners/claimants therein of interest on the enhanced amount of compensation, if any, it would be incongruous to

deprive the applicants of such interest on enhanced compensation.

9. In view of the above, the applicant has indeed made out a case for reviewing the said order passed in Writ Petition No. 1984 of 2017. The discrepancy highlighted on behalf of the applicants does qualify as an error apparent on the face of record of the said order. Therefore, this Court is inclined to allow the present application.

10. Accordingly, the application is allowed.

11. The judgment and order dated 07/01/2019 passed in Writ Petition No.1984 of 2017, is reviewed and modified to the extent that following observations made in paragraph 4 of the said order stand deleted.

“ However, in view of the inordinate delay on the part of the petitioner in bringing the facts as mentioned in paragraph 8A of the proposed amendment on record, it has to be recorded that the petitioner will not be entitled for interest on the enhanced amount of compensation, if any, for the period from the date of filing of the reference petition i.e. 15th December 2015 till today.”