

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2381 OF 2021

**MADHAV LALBA DEOKATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Mr. Suraj R. Bagal, Advocate h/f Mr. B. N. Gadegaonkar, Advocate
for Petitioner
Mr. Y.G. Gujrathi, AGP for Respondent Nos.1 & 2
Ms. M.V. Narwade, Advocate h/f Mr. V.P. Narwade Advocate for
Respondent No.3
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 10th OCTOBER, 2023

PER COURT :

1. Application filed by petitioner at Exhibit-12 for amendment of his claim in L.A.R. No.493/2010, is rejected by reference Court. Petitioner is aggrieved by this order.
2. Petitioner has filed reference for enhancement of compensation awarded to him for his acquired land. By application Exhibit-12, petitioner sought to amend reference to claim enhanced amounts of compensation. This application is rejected by reference Court. Hence, present petition.
3. Heard learned advocate for petitioner, learned advocate for respondent No.3 and learned Assistant Government Pleader for respondent Nos.1 and 2. Perused writ petition memo, annexures

thereto and impugned order as well as citations relied upon by the parties.

4. Learned advocate for respondent No.3 has vehemently opposed petition by relying on ***State of Rajasthan and Others Vs. D. R. Laxmi and Others, (1996) 6 SCC 445.***

5. Learned advocate for petitioner by filing additional affidavit has placed on record copies of orders passed by reference Court in similarly situated claimants' applications, by which their prayer for amendment of reference is allowed. Two of such orders passed in L.A.R. No.332/2012 and 344/2012 are placed on record. Admittedly, L.A.R. No.332/2012 and 344/2012 are filed by claimants who have filed reference for enhancement of compensation awarded by the same award.

6. As per Section 53 of the Land Acquisition Act, 1894, provisions of Code of Civil Procedure are applicable to proceedings before reference Court. It is settled legal position that amendment is to be liberally allowed. No prejudice is likely to be caused to respondents if amendment is allowed. By rejecting application for amendment, reference Court has failed to exercise jurisdiction vested in it. Impugned order is, therefore, unsustainable.

7. Reliance placed by respondent No.3 in ***D. R. Laxmi and Others*** (supra) is misplaced and misconceived. The said decision is not applicable to the present case.

8. In the result, following order:-

ORDER

- (I) Writ petition is allowed.
- (II) Impugned order dated 28/08/2020, passed by learned Civil Judge, Senior Division, Mukhed, below Exhibit-12 in L.A.R. No.493/2010, is quashed and set aside.
- (III) Application Exhibit-12 is allowed subject to cost of Rs.5,000/- to be paid by petitioner to respondent No.3 in reference Court.

(NITIN B. SURYAWANSHI, J.)