

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 540 OF 2014
IN / WITH
FIRST APPEAL NO. 813 OF 2002

The State Of Maharashtra ...Applicant/Appellant

Versus

Shankar Tatya Mudhe(Dead) Smt. ...Respondents
Parvati Shankar Mudhe, (Dead) His Lrs.
1.Shri. Shivaji Shankar Mudhe And Ors.

Ms. Tanaya Goswami, AGP for Applicant/State.

None for the Respondents.

CORAM : M.M. SATHAYE, J.

DATE : 12th DECEMBER, 2023

P.C. :

IN CIVIL APPLICATION NO. 540 OF 2014

1. This is an Application by Appellant/State for bringing legal heirs of deceased sole Respondent on record and for setting aside the abatement of the Appeal and for restoration thereof.

2. Averments in the Application is that sole Respondent expired on 18.12.2005 and his wife Smt. Parvatibai Shankar Mudhe predeceased him on 10.07.1997, thereby leaving behind their legal heirs whose details are given in the paragraph 4 of the Application.

3. Considering the date of death, apparently there is delay of about 7 years 9 months in filing this Application. Record shows

that the legal heirs of sole Respondents are duly served. However, nobody appeared on their behalf. It is the case of the State that they were not aware of the death of the sole Respondent and it is only in July-2013 when the matter was listed before the Registrar and service report came, at that time State came to know that sole Respondent has died. The AGP has thereafter corresponded with the concerned Deputy Collector at Solapur and ultimately under letter dated 24.12.2013, the details of legal heirs and date of death have been communicated. Thereafter the Application seems to have been file in January-2014.

4. In view of the aforesaid un-contraverted averments in the Application, sufficient cause is made out. Civil Application is allowed and disposed of in terms of prayer clauses (b) to (e). Delay is condoned. Abatement of the First Appeal is set-aside. First Appeal is restored to file. Appellant/State is permitted to bring on record legal heirs of sole Respondent. Necessary amendment be carried out within two weeks from today.

5. All concerned to act on authenticated or digitally signed copy of this order.

IN FIRST APPEAL NO. 813 OF 2002

1. Heard learned AGP for the Appellant/State. None for the Respondents.

2. By this Appeal filed u/s. 54 of the Land Acquisition Act, 1894 (for short “the said Act”), the State is challenging Judgment and

Order dated 31.03.1994 passed by Civil Judge Senior Division, Pandharpur in Land Reference No. 33 of 1990. By the said impugned Judgment and Order, the learned Reference Court has granted total enhanced amount at the rate of Rs. 6,000/- per Hectar, which will work out to Rs. 5,400/-. Amounts of 30% solatium and 12% interest p.a. are also awarded on this amount by the Reference Court. So the total enhanced amount works out to Rs. 17,401/-

3. Few facts necessary for disposal of this appeal is as under. The Respondent/Original Claimant was owner of Gut No. 441 situated at Mangalvedha, Tal. Mangalvedha Dist. Solapur. Out of this land, a portion of 90 Are land was acquired for Ujani Project. Notification u/s. 4 of the said Act, was issued in the Government Gazette on 19.06.1969 and Award was declared on 23.09.1986, under which the concerned Special Land Acquisition Officer ("SLAO" for short), has awarded an atrociously meagre amount of Rs. 2,475/- to the Respondents/Claimant.

4. Being aggrieved and dissatisfied by this Order, the Respondent/Claimant filed the aforesaid Land Reference. After hearing both sides and after considering the evidence on record, the Reference Court has partly allowed the reference and total enhancement has been granted as stated above.

5. Learned AGP for the Appellant/State has assailed the impugned Judgment and Order as per grounds raised in the appeal memo. Nobody appears for the Respondents

6. I have carefully considered the reasoning given in the

impugned Judgment and Order by the Reference Court. The reasons are well founded. The Learned Reference Court has considered the sale instances of similarly situated lands and has come to the conclusion about enhancement. Considering these facts and also considering that the original total amount awarded by SLAO (Rs. 2,475/-) and total enhanced amount granted by Reference Court (Rs. Rs. 17,401/- including statutory benefits) are atrociously meagre and that they are granted on valid basis, no fault can be found with the impugned Judgment and Order. Amounts of solatium and interest being statutory, do not call for any interference.

7. Facts of this case are more or less similar to a group of First Appeals disposed of by another Single Bench of this Court with lead First Appeal No. 208 of 1992 along with others under Order dated 03.04.2017 (Coram : M.S. Sonak, J.). I am completely in agreement with the view taken by my brother Judge in the said Order. It has to be noted that state compulsorily acquires lands of the citizens like Respondents/Claimants and despite the compensation amount being so paltry / meagre, the State carries the matters in appeal. In many cases, it is found that on account of pendency of the Appeal (primarily because no steps are taken by the State to effect service or bring legal heirs on record or reasons alike), the Respondents/Claimants remains deprived of even meagre amounts of compensation awarded to them. It is also sadly noted that the State Government in such Appeals, spends amounts on Court fees, typing and other filing expenses and legal fees which are either comparable to the existing amounts of compensation involved or more. In many

cases it is found that the AGPs express their helplessness because despite communication/s the concerned Government officers do not come forward and take responsibility by clearly stating whether a particular Land Reference case is falling under relevant GRs (including G.R. dated 03.11.2016 with Corrigendum dated 23.02.2017, 04.05.2017 and 11.05.2018) and whether the Appeal should be prosecuted or not in view thereof. It is further sadly noted that the general perception seems to be, *firstly* that the claims which are held against Government or Statutory Authority must be viewed as illegal and therefore should be resisted and fought up to the highest Courts and *secondly*, that if a decision on the issue could be avoided or is to be avoided, then it is simply not taken so that aggrieved party can approach the Court and let the Court take the decision. This results in clogging of the judicial system and also eats into the valuable judicial time. In view thereof I find that this is a fit case for dismissal.

8. Hence the Appeal is dismissed. No order as to costs. In view of the dismissal of Appeal, the Respondents/Claimants are at liberty to withdraw the amount of compensation with accrued interest, if deposited by the State in the Reference Court along with accrued interest, if not already withdrawn.

9. All concerned to act on authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)