

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 243 OF 2000

The State of Maharashtra

...Appellant

Versus

M/s. Solanki and Sons

...Respondent

Ms. Tanaya Goswami, AGP for the Appellant/State.
None for the Respondent.

CORAM : M.M.SATHAYE, J.

DATE : 20th DECEMBER 2023

PC. :

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

2. This is an appeal by the Appellant/State under Section 54 of the Land Acquisition Act (for short 'the said Act') challenging the Judgment and Order dated 10.04.1997 passed by the Additional District Judge, Kolhapur in L.A.R. No. 65 of 1985. By the said impugned order, the Reference Court has granted additional compensation of Rs.59,494/- along with statutory benefits of solatium @ 30% and additional compensation @ 12%. In addition to this, an amount of Rs.6,900/- is held payable to the Respondent/Claimant towards loss of business.

3. Few facts necessary for final disposal of the appeal are as

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under. The structure belonging to Respondent/claimant admeasuring 53.56 sq. meters situated on C.S No. 345,, E Ward, Kolhapur was acquired for the purpose of road widening. Admittedly, the claim of the Respondent/claimant is towards compensation of structure only and for loss of business. The compensation payable towards land which was acquired is payable to the land owner, who is not concerned with the present matter, nor he is party here. The Notification under Section 4 of the said Act was issued on 30.01.1983. The concerned Special Land Acquisition Officer (for short 'SLAO') passed the Award on 29.03.1984, thereby awarding total compensation of Rs.20,846/- . Being aggrieved and dissatisfied by the said Award, the Respondent filed the aforesaid Reference under Section 18 of the said Act. The Reference Court after hearing both sides and on appreciation of evidence on record, has passed the impugned Order.

4. Learned AGP for the State assailed the impugned judgment and award on various grounds as per the appeal memo. It is submitted that there was no material to hold that the Respondent was entitled to compensation @ Rs.1,500/- per sq. meters for the structure and the enhanced compensation granted is on the higher side.

5. I have considered the submissions carefully. I have also carefully considered the impugned Judgment and Order. Perusal of the impugned order shows that taking into consideration the evidence of the valuer (PW.2) and other circumstances including the

location of the structure on the road front and the manner in which the structure and its interior was done in lavish and luxurious manner, the Reference Court has arrived at conclusion that Respondent/claimant is entitled to compensation @ Rs.1500/- per sq. meters for loss of structure.

6. Considering that the amount awarded by the SLAO of Rs.20,846/- as well as additional amount of compensation granted by the Reference Court of Rs.59,494/-, both are meagre amounts and also considering that these amounts are arrived at on the basis of valid and sustainable reason, there is no reason to interfere. The amount awarded towards loss of business of Rs.6,900/- is atrociously low, considering that the Respondent/ Claimant was running a beer bar and cold-drink house there. The other components awarded by the Reference Court are in the nature of statutory benefits such as solatium & additional compensation and therefore they call for no interference. There is no merit in appeal.

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 Respondent/Claimant 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 Respondent/Claimant 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 Respondent/Claimant or his legal heirs as the case may be, is/are at liberty to withdraw the amount of

compensation, if deposited by the State in the Reference Court along with accrued interest, if not already withdrawn. Needless to mention that the impugned order becomes executable.

9. In view of dismissal of the appeal, all pending application/s is /are also dismissed.

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

[M.M.SATHAYE,J.]