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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2492 OF 2022
WITH
INTERIM APPLICATION NO. 1644 OF 2020
IN/WITH
FIRST APPEAL NO. 60 OF 2001

The State Of Maharashtra (Through The Special
Land Acquisition Officer, National Highway Project, Nashik ...Applicant/
...Appellant

Versus

Waman Shmaji Nikam And Ors. (for Self And ...Respondents
Power Of Attorney Holder Of Sr. Nos.2 to 7)

Ms. Tanaya Goswami, AGP for Applicant/Appellant.

CORAM : M.M. SATHAYE, J.

DATE : 13th DECEMBER, 2023

P.C. :

1. Heard learned AGP for the Applicant/Appellant-State. None for the Respondent.
2. Interim Application No. 2492 of 2022 is filed for restoration of the present First Appeal in which there is delay of 2 years and 122 days. This application is shown to be dismissed as against Respondent Nos. 2 & 5. However, in this application, proposed names of legal heirs of deceased Respondent No. 2 & 5 are stated.
3. Interim Application No. 1644 of 2020 is filed for bringing legal heirs of Respondent No. 2 on record of the First Appeal. In this

application, there is delay of 39 years 43 days. As per averments of the State, Respondent No. 2 original claimant Sukdeo Shamji Nikam is reported to have died in August, 1980. The present application is apparently filed in the year 2020. The application for restoration is surviving as against other Respondents.

4. Office note shows that both these applications are served on Respondent Nos. 1, 3, 4, 6 & 7 (hereinafter “served Respondents”)

5. Assuming that this delay is not properly explained and it is not condoned and restoration application is rejected against Respondent Nos. 2 & 5, even then restoration will be pressed against the served Respondents, who are not appearing and obviously no reply is filed. In that case, the appeal will have to be heard on merits. In that view of the matter, the main appeal, which is an old one of the year 2001, itself is taken up for disposal on merits.

6. Few facts necessary for disposal of this appeal are as under. This Appeal is filed by State u/s. 54 of the Land acquisition Act (“**the said Act**” for short) against a common Judgment and Order dated 01/01/1998 passed by learned Joint District Judge, Nashik, in group of land references, including the subject matter L.A.R. No.712 of 1990. By said impugned Order total enhanced compensation of meagre amount of Rs.10,683/- is granted.

7. The Respondent-claimant was the owner of land Gat No. 94 situated at Village Manjre Taluka Malegaon, District Nashik, which was acquired for construction of Girna Right Bank Canal. Necessary

Notification u/s.4 of the said Act was published in the Government Gazette on 26/12/1985. The concerned Special Land Acquisition Officer granted Award of Rs.2,189/- only.

8. The Respondent-claimant being aggrieved and dissatisfied by the said Award, filed the aforesaid land reference u/s. 18 of the said Act. The Reference Court after hearing both sides and on appreciation of evidence, has granted total enhanced compensation Rs.10,683/-.

9. Learned AGP appearing for the Appellant/State assailed the impugned Judgment and Order and as per various grounds raised in the Appeal memo. None appeared for the Respondent.

10. I have carefully considered the impugned Judgment and Order. The reasons given by the learned Reference Court for arriving at the enhanced compensation are well founded. As is evident from para 12, the learned Reference Court duly considered that the sale instance was of bagayat (irrigated) land and the subject matter land is jirayat (non-irrigated) land and therefore, the rate is appropriately reduced and applied.

11. In the aforesaid facts and circumstances, considering the fact that the original amount awarded by SLAO of Rs.2,189/- and total enhanced compensation granted by Reference Court of Rs.10,683/- both are atrociously meagre amounts, and also considering the fact that this enhanced amount consists of even statutory benefits of solatium and interest component, no fault can be found with the impugned Judgment and Order. The Appeal is devoid of merit and the same is dismissed. No order as to cost. However, rights of

proposed legal heirs of deceased Respondent Nos. 2 & 5 will have to be taken care of.

12. In view of the dismissal of the Appeal, the Respondents/Claimants, including the proposed legal heirs of deceased Respondent Nos. 2 & 5 are at liberty to withdraw the amount if deposited by the Appellant-State in the Reference Court along with accrued interest, if any not already withdrawn.

13. In view of the dismissal of the Appeal, above pending Interim Applications also stand dismissed.

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

(M.M. SATHAYE, J.)