

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 570 OF 2001

The State Of Maharashtra And Anr. ...Appellant
Versus
M/s. Bharat Petroleum Corporation Ltd. ...Respondent

YUGANDHARA
SHARAD PATIL

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Ms. Tanaya Goswami AGP for the Appellant/ State.
Mr. S.R. Page , Advocate for the Respondent.

CORAM: M.M.SATHAYE J.
DATE : 21st DECEMBER, 2023

PC. :

1. By this Appeal, filed under Section 54 of the Land Acquisition Act, 1894 (for short "the said Act"), the Appellant/State is challenging the Judgment and Order dated 18.01.1994 passed by Joint District Judge, Thane in Land Reference No. 151 of 1987. By the said impugned Order, the Respondent-Claimant (BPCL) is held entitled to additional compensation of Rs.55,000/- together with 12% additional component and 30% solatium.

2. Heard learned AGP for the Appellant/State and learned counsel for the Respondent-Claimant.

3. Few facts necessary for disposal of this Appeal are as under.

The Respondent/Claimant was a lessee of part of land which was acquired for public purpose i.e. planned development and utilisation of the lands in the Trans Thane Creek area for industrial, commercial and residential purpose. The subject matter land was Gat No. 166(part) situated at village Rabale, Dist. Thane. Admittedly, the Respondent-claimant was running a petrol pump on the acquired land in the capacity of a lessee. Necessary notification under section 4 of the said Act was issued on 02.11.1972 and declaration under section 6 of the said Act was published on 27.06.1974. The concerned Special Land Acquisition Officer ("SLAO" for short) granted an award of Rs. 32,094/- towards loss of business as well as compensation for structures i.e. fencing, well, sales building etc. Being aggrieved by the said Award, the Respondent/Claimant filed aforesaid Land Reference under section 18 of the said Act and the Land Reference Court has passed impugned order.

4. The Learned AGP appearing for the Appellant/State has assailed the impugned Judgment and Order on various grounds as raised in the Appeal memo. She submitted that the amount of additional compensation is excessive considering that there is no documentary evidence to show construction as claimed by the Respondent.

5. *Per contra*, learned counsel for the Respondent submitted that the Respondent was running a petrol pump on the acquired land and as such it cannot be disputed that it had construction, which was necessary for running petrol pump. It is case of the Respondent that

because subject matter land was acquired, the company was required to shift its petrol pump to new premises obtained from CIDCO. He supported reasons given by the Reference Court.

6. I have carefully considered the impugned Judgment and Order. The reasons given by the Reference Court are found to be valid and well founded. It is a matter of common knowledge that petrol pump cannot be run without necessary structures. The Reference Court has held that undisputedly, the Respondent-Claimant had enjoyed the fruits of the construction and consequential income thereof. The Reference Court has granted additional compensation having regard to the nature of construction and considering its use. In para 17 of the impugned order, Reference Court has held that there was a construction of cabin, three underground petrol storage tanks, 3 petrol pumps as well as a sales cabin.

7. In view of the aforesaid facts and circumstances, the impugned Order is found to be passed on the appreciation of evidence. Also, considering that the original award granted by SLAO of Rs. 32,094/- as well as additional compensation granted of Rs. 55,000/- are meagre amounts, granted on appreciation of evidence and valid reasons, in my considered view, there is no reason to interfere. There is no merit in the Appeal.

8. 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.

9. Hence the Appeal is dismissed. No order as to costs. In view of the dismissal of Appeal, the Respondent/Claimant is 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.

10. In view of dismissal of the appeal, all pending applications, if any are also dismissed.

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

[M.M.SATHAYE,J.]