

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 401 OF 2001

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The State Of Maharashtra through the Special ...Appellant.
Land Acquisition Officer, Metro Centre No. 12,
Panvel.

Versus

Mahadeo Tukaram Patil And Ors. ...Respondents

Ms. Tanaya Goswami, AGP for Appellant/State.

Dr. Prakash K. Deshmukh Advocate for Respondent No. 1.

CORAM : M.M. SATHAYE, J.

DATE : 4th DECEMBER, 2023

P.C. :

1. Heard learned AGP for Appellant/State and learned Counsel for the Respondents/Claimants.

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 22.09.1993 passed by 2nd Additional District Judge, Raigad-Alibag, Raigad in Land Reference No. 163 of 1987. By the said impugned Judgment and Order, the present Respondents/Claimants have been granted enhancement of the amount from Rs. 13,472.40/- to Rs. 54,320/- which in other words means that enhancement of Rs. 40,847.60/- is granted by the Reference Court.

3. Few facts necessary for disposal of this appeal are as

under. The State Government had acquired the land of the Respondents viz. land bearing Survey No. 67 Hissa No. 2+3 admeasuring 3,880 sq. Mts. at village Kamothe for New Bombay Project. Notification u/s. 4 of the said Act, was issued on 03.02.1970 and Award was declared on 16.09.1986, by the Special Land Acquisition Officer, Metro Centre No. 12, Panvel by which an award of meagre amount of Rs.13,472.40/- was passed. The Respondents/Claimants, being aggrieved and dissatisfied by this award, filed the aforesaid Land Reference under Section 18 of the said Act. After hearing both sides and after considering the evidence on record, the Reference Court has granted enhancement as explained earlier.

4. Learned AGP for the Appellant/State has assailed the impugned Judgment and Order as per grounds raised in the appeal memo. Learned Counsel for the Respondents/Claimants has supported the impugned Judgment.

5. I have carefully considered the impugned Judgment and Order. I have also gone through the reasoning given by the learned Reference Court, which is well founded. The Reference Court, on appreciation of evidence, has concluded that the Respondents/Claimants are entitled for compensation at the rate of Rs.14/- per square meter. Impugned Judgment shows that the Respondent/Claimant Mr. Mahadev Tukaram Patil examined himself and also examined valuer by name Mr. Manohar Gopal Vaidya. The valuer had pegged the amount of compensation at Rs. 30 per sq. mtrs, however considering the sale instances as well as the other

evidence on record, the Reference Court has granted compensation only @ Rs. 14/- per sq mtrs. *vis-a-vis* Rs.30/- per sq mtrs. as suggested by the valuer.

6. Apparently the Respondent/Claimant have neither filed any cross objection nor claimed any further enhancement. Considering these facts and circumstances and further considering the fact that the enhancement granted is a meagre amount of Rs. 40,847.60/-, no fault can be found with the impugned Judgment and this Court is not inclined to interfere.

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 Respondents/Claimants 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.

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

(M.M. SATHAYE, J.)