

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2511 OF 1998
IN/WITH
FIRST APPEAL NO. 627 OF 1994

The State of Maharashtra

...Applicant/

...Appellant

Versus

Shri. Hari K. Udar And Ors

...Respondents

Ms. Tanaya Goswami, AGP for Applicant/Appellant.

Ms. Rukmini Khairnar i/b. PN. Joshi, Advocate for Respondent Nos.
1, 2, 3, 7 to 10.

CORAM : M.M. SATHAYE, J.

DATE : 1st DECEMBER, 2023

P.C. :

1. This is an old Appeal, admitted on 05/09/1994. As on today, Respondent Nos.1, 2, 3, 7 to 10 are appearing through Advocate and Court notices are served upon Respondent Nos. 4a, 4d, 5a to 5c. However Respondent Nos. 4b, 4c and 5d are reported dead. No applications for bringing their legal heirs on record, are filed till date, by the Appellant State.

2. The above application is filed for bringing legal heirs of deceased Respondent No. 6 on record. Office note shows that the Appellant/State has yet not taken steps against Respondent No. 6e who is also reported to be dead.

3. In these circumstances, considering the fact that this is very old

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appeal, the matter is taken up for final disposal.

4. This is an Appeal by the State challenging an order dated 20.02.1992 passed by Joint Dist. Judge, Nashik in Civil Misc. Application No. 519 of 1985 in respect of a Judgment and Award dated 11/09/1984 passed in L.R. No. 106 of 1983. By this impugned Order, the learned Joint District Judge has exercised powers u/s. 152 of Civil Procedure Code for correction of arithmetical calculations in the Award dated 11/09/1984 passed in L.R. No. 106 of 1983.

5. Heard learned AGP for the Appellant/State, who has assailed the impugned Order as per the grounds raised in the Appeal memo. Also heard learned counsel for the Respondents, who has supported the impugned Order.

6. I have carefully considered the impugned Judgment and Order. The Reference Court has calculated the amounts payable towards compensation, solatium and interest after adjusting the amounts already received by the Respondents/Claimants. The balance payable amount is worked out and interest is granted on the said amount. The net result of the impugned Order is that the Special Land Officer was directed to pay Rs.85,332.92 with interest @ 15% p.a. on only part of that amount viz. Rs.42,666.46.

7. The impugned order has attained finality in respect of legal heirs of Respondent Nos. 4b, 4c & 5d, because although they are reported dead but no application for bringing their legal heirs on record is filed till date. So also there is delay of 3 years and 40 days in filing the application for bringing legal heirs of deceased

Respondent No. 6 on record and in that application also proposed Respondent No. 6e (Bhimabai Gopala Udar) has been reported dead. Till date no application for proposed legal heirs of said proposed legal heir (Respondent No. 6e) is filed. In such situation, as on today, the Appeal is also abated by operation of law as against Respondent No. 6e and has attained finality for her legal heirs.

8. In these facts and circumstances assuming that there is sufficient explanation for bringing other legal heirs of Respondent No. 6 on record, the Appeal will still remain abated as against Respondent No. 4b, 4c, 5d & 6e. Therefore, if the present Appeal is continued on merit, there is every likelihood of conflicting orders being passed amongst those Respondents who are on record and legal heirs of other Respondents for whom the impugned order has attained finality. In that view of the matter, no fruitful purpose will serve by entertaining this Appeal on merits. Even otherwise, the amounts awarded under the impugned Order are not very substantial amounts.

9. 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. 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 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.

10. Therefore, taking over all view of the matter, no interference is called for at the hands of this Court u/s. 54 of the Land Acquisition Act. Hence the Appeal is dismissed. No order as to costs.

11. 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.

12. In view of the disposal of the Appeal, all pending applications, if any, are also disposed off accordingly.

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

(M.M. SATHAYE, J.)