

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

FIRST APPEAL NO. 1044 OF 1992

The State of Maharashtra

...Appellant

Versus

Namdeo Kalya Jitekar

...Respondent

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

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**CORAM : M.M.SATHAYE J.
DATE : 11th DECEMBER 2023**

PC. :

1. Heard learned AGP for the State. None for the Respondent.
2. This is an appeal under Section 54 of the Land Acquisition Act, 1894 (for short 'the said Act') by the State challenging the Judgment and Order dated 02.05.1991 passed by the Second Additional District Judge, Raigad in L.A.R. No 70 of 1987. By the said impugned Judgment and Order, Reference has been partly allowed and the Appellant/State is directed to pay Rs.14,762.50 plus Rs.55,250/- towards additional compensation of land and trees respectively along with other benefits under Section 23(1)(a), 23(2) and 28 of the said Act with proportionate costs.
3. Few facts necessary for disposal of this appeal are as under. The land of the Respondent/Claimant being Survey No. 86 Hissa No.

1(P) totally admeasuring 2300 square meter situated at village Dapoli was acquired for New Bombay project. The notice under Section 4 of the said Act was issued on 03.02.1970 and the same was published in the Government Gazette on 05.09.1970 and Award was passed on 29.07.1986. The possession of land was taken on 11.08.1986 by the Special Land Acquisition Officer, Metro Centre No.8, Panvel. The concerned SLAO granted total compensation of meagre amount of Rs.10,913.62 which was accepted by the Respondent/Claimant under protest.

5. Being aggrieved and dissatisfaction of the said meagre amount of compensation, he filed the aforesaid land Reference. The Reference Court after considering the evidence on record and after hearing both the sides, has allowed the reference partly, thereby granting additional compensation as stated earlier.

6. Learned AGP appearing for the Appellant/State has assailed the impugned Judgment and Order on various grounds mentioned in appeal memo. None appeared for the Respondent.

7. I have carefully considered the impugned Judgment and Order. The reasons therein are well founded. The learned Reference Court has considered value of the trees lost by the Respondent/Claimant which has both timber as well as fuel value. The learned Reference Court has considered that the Respondent/Claimant has also lost valuable trees like alphonso mango trees which were obviously yielding ones. So far as land

value is concerned, the Reference Court has enhanced the same on the basis of Non-Agriculture potential of the land.

8. In the aforesaid facts and circumstances, considering that the original total award amount (Rs. 10,913.62)as well as enhanced amount (Rs. 70,012.50) are both meagre ones and that they are granted on the valid basis, no fault can be found in the impugned Judgment and Order. There is no merit in the appeal.

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 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.

10. 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.

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

[M.M.SATHAYE,J.]