

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2791 OF 2022

IN

FIRST APPEAL NO. 64 OF 1998

The State of Maharashtra

...Applicant

Versus

Pradeep Shankar Halbhavi (since deceased)
through legal heirs

1/3-a) Priti Pradep Halbhavi & Anr.

...Respondents

YUGANDHARA
SHARAD
PATIL

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WITH

INTERIM APPLICATION NO. 2792 OF 2022

IN

FIRST APPEAL NO. 64 OF 1998

The State of Maharashtra

...Applicant

Versus

Suvarna Shankar Halbhavi (since deceased)
through legal heirs

1/1-a) Priti Pradep Halbhavi & Ors.

...Respondents

WITH

FIRST APPEAL NO. 64 OF 1998

The State of Maharashtra & Anr.

...Appellants

Versus

Suvarna Tippanna Halbhavi (since deceased)
through legal heirs 1. Smt. Suvarna Shankar
Halbhavi and Ors.

...Respondents

Ms. Tanaya Goswami AGP for the Applicant/Appellant-State.
None for the Respondents.

CORAM: M.M.SATHAYE J.
DATE : 12th DECEMBER, 2023

P.C. :

1. Heard learned counsel for the Applicant/Appellant-State.
None for the Respondents.
2. IA No. 2791/2022 is filed for bringing the legal heirs of deceased Respondent No. 1/3 (Pradeep Shankar Halbhavi) on record. According to Office note there is delay of 1 year and 51 days in filing this Application.
3. IA No. 2792/2022 is filed by Applicant/Appellant-State for bringing legal heirs of Respondent No. 1/1 (Suvarna Shankar Halbhavi) on record. According to Office note there is delay of 11 years and 320 days in filing this Application.
4. Assuming that this delay is not properly explained and it is not condoned, even then this appeal of the State survives and will be prosecuted against other legal heirs of original Claimant (Shankar Tippanna Halbhavi) viz. Respondent Nos. 1/2 and 1/4 and will have to be decided on merits. On the other hand, if it is assumed that the Applicant-State has excellent case for delay condonation and legal heirs of deceased Respondent Nos. 1/3 and 1/1 are brought on record, even then this appeal will have to be decided on merits. In

that view of the matter, the main appeal, which is an old one of the year 1998, itself is taken up for disposal on merits.

5. This Appeal is filed by the State under Section 54 of the Land Acquisition Act (for short “the said Act”) challenging the Judgment and Order dated 09.05.1997 passed by 2nd Additional District Judge, Kolhapur in Land Reference No. 98 of 1988. By the said impugned Order the learned Reference Court has granted total enhancement of Rs. 61,268/- including statutory solatium and interest amounts in favour of the Respondents-Claimants.

6. Few facts necessary for disposal of this Appeal are as under. The original Claimant Mr. Shankar Tippanna Halbhavi was owner of CTS No. 3496 situated at main road, Kagal, District Kolhapur. A portion of the said property admeasuring 146.39 sq. ft was acquired for the purpose of road widening at Kagal. Necessary notification under Section 126(1) of the Maharashtra Regional and Town Planning Act r/w Section 6 of the said Act was issued on 20.11.1986. The concerned Special Land Acquisition Officer passed an award and granted a meagre amount of compensation of Rs. 8,513/- in favour of the original Respondent/Claimant.

7. Being aggrieved and dis-satisfied by the said award, the Respondent/Claimant filed the aforesaid Land Reference under Section 18 of the said Act. The Reference Court after hearing both sides and on appreciation of evidence, has passed the impugned order thereby granting enhancement as aforesaid.

8. Learned AGP has assailed the impugned Judgment and Order on various grounds as mentioned in appeal memo.

9. I have carefully considered the reasoning given in the impugned Judgment and Order. The Reference Court has considered orders passed in many other Land References arising out of the similarly situated lands at the main road, Kagal and has determined the rate of Rs. 80/- per sq. feet for enhanced compensation. In paragraph 20 of the said impugned Judgment and order, the said rate is applied and compensation for the land as well as value of the structure is calculated and ultimately final enhancement amount of Rs. 61,268/- including the statutory benefits of 30% solatium, 12% additional component on market value and 9% interest are all calculated and clubbed together.

10. If the aforesaid figures are considered, it is as clear that the original amount as well as the enhanced amount, both are meager amounts.

11. 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 / meager, 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.

12. Hence the Appeal is dismissed. No order as to costs. However, rights of the said proposed legal heirs of deceased

Respondent Nos. 1/3 & 1/1 will have to be taken care of. Therefore, in view of the dismissal of Appeal, the Respondents/Claimants, including proposed legal heirs of deceased Resp. Nos. 1/3 & 1/1, 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.

13. In view of dismissal of the appeal, all pending application/s is/are also dismissed.

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

[M.M.SATHAYE,J.]