

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 16 OF 2000

The State Of Maharashtra

...Appellant.

Versus

Sushila Shivgonda Patil and Ors.

...Respondents/Org
Claimants.

Ms. Tanaya Goswami, AGP for Appellant/State.

Mr. V. B. Rajure, Advocate for Respondent Nos. 1 to 4.

CORAM : M.M. SATHAYE, J.

DATE : 20th DECEMBER, 2023

P.C. :

1. Heard learned AGP for the Appellants/State and learned counsel for the Respondents.

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 10.03.1997 passed by Additional District Judge, Kolhapur, in Land Reference No. 42 of 1989. By the said impugned Order the Reference Court has held the Respondents/Claimants as entitled to additional compensation of Rs. 19,360/-. The Reference Court has also awarded statutory benefits of 30 % solatium as well as 12% additional component.

3. Few facts necessary for disposal of this appeal are as under. The Respondent/Original Claimant was owner of Gat No. 291

to the extent of 1 hector 21-R, which was acquired for the purpose of resettlement of the persons affected by Dudhaganga Project. Necessary Notification was issued in the Government Gazette on 14.07.1983. Award has been passed on 20/08/1988, thereby granting meagre compensation of Rs. 26,015/-.

4. Being aggrieved and dissatisfied by this award, the original Respondent/Claimant filed the aforesaid Land Reference u/s. 18 of the said Act. After hearing both sides and after considering the evidence on record, the Reference Court has passed the impugned Order.

5. Learned AGP for the Appellant/State has assailed the impugned Judgment and Order as per grounds raised in the appeal memo. It is submitted that the present Respondents were cultivating only jawar and grass while as the owner of land of sale instance was cultivating jawar, chille and tobacco and as such the sale instance value is on the higher side and could not have been accepted. It is further submitted that the assessment of land revenue of acquired land and sale instance land were not equal and there is difference of about 25 % in the same.

6. *Per contra*, Learned counsel for the Respondents, on the other hand has supported the impugned Order. He submitted that the enhancement is granted on the basis of valid reasons and call for no interference.

7. I have carefully considered the submissions. Careful perusal of the impugned Judgment and Order shows that the

Reference Court, despite variation in the revenue assessment, found on appreciation of evidence, in para 15 that the sale instance land was of equal quality as compared to the acquired land. The Reference Court found that the sale instance land was at a short distance of 20 ft. from the acquired land and as such passing the test of proximity. Thus the Reference Court came to the conclusion that the additional rate is required to be granted.

8. In these circumstances, considering the fact that, the amount granted by SLAO (Rs. 26,015/-) as well as additional compensation granted by the Reference Court (Rs. 19,360/-) are both meagre amounts, which are granted on the basis of appreciation of evidence and valid reasons, no fault can be found with the impugned Judgment and Order. So far as the grant of statutory benefits of solatium, additional component and interest are concerned, there is no question of interference in the same as they are statutory in nature. In the aforesaid facts and circumstances, there is no reason to interfere.

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 Respondents/Claimants or their legal heirs as the case may be, 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. Needless to mention that the impugned order becomes executable.

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

(M.M. SATHAYE, J.)