

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

FIRST APPEAL NO. 19 OF 1999

The State of Maharashtra

...Appellant

Versus

Kachru Sadu Choudhari

...Respondent

Ms. Tanaya Goswami, AGP for the Appellant/State.

Ms. Gunjan Shah i/b P.B. Shah for the Respondent.

**SNEHA
NITIN
CHAVAN**

Digitally signed
by SNEHA NITIN
CHAVAN
Date: 2023.12.21
19:47:12 +0530

CORAM : M.M.SATHAYE, J.

DATE : 21th DECEMBER 2023

PC. :

1. This is an appeal by the State under Section 54 of the Land Acquisition Act, 1894 ('the said Act' for short) challenging the Judgment and Order dated 30.09.1996 passed in LAR No. 69 of 1986. By the said order, the Reference Court has granted total enhanced amount of Rs.52,163/- including 30% solatium and 12% additional component. After deducting the amount of Rs. 7,461/- granted by Special Land Acquisition Officer, the Additional amount held payable is only Rs. 44,702/- alongwith 9% and 15% interest for first year and thereafter respectively.

2. Heard learned AGP for the State and learned counsel for the Respondent/Claimant.

3. Few facts necessary for disposal of the appeal are as under.

Land block No. 892-A to the extent of 46 Ares situated at village Khambale, Taluka-Igatpuri, District-Nashik was acquired for the purpose of constructing government quarters. Necessary notification under Section 4 of the said Act was published in Government Gazette on 02.11.1982. The concerned Special Land Acquisition Officer ('SLAO' for short) passed an Award on 19.03.1984 granting meagre amount of Rs.7,461/-. Being aggrieved and dissatisfied the same, the Respondent/Claimant filed aforesaid Reference under Section 18 of the said Act. The Reference Court, after hearing both the sides and on appreciation of the evidence has passed the impugned order.

4. Heard learned AGP for the Appellant/State and learned counsel for the Respondent/Claimant.

5. Learned AGP assailed the impugned order as per grounds raised in appeal memo. It is submitted that the Reference Court has erred in relying on the Judgment of the LAR No. 84 of 1981 for coming to the conclusion that the claimant is entitled to enhanced compensation. It is further submitted that there was no reliable evidence for enhancement. *Per contra*, learned counsel for the Respondent supported the impugned order and submitted that the original amounts granted by the SLAO were extremely meagre and the impugned order is based on material considerations applied by the Reference Court and as such no interference is called for.

6. I have carefully considered the impugned Judgment and

Order. Perusal of para 5 of the impugned order shows that the Reference Court was conscious of the fact that the sale instance relied upon by the Respondents/Claimants was of exorbitant price and therefore, the Reference Court has not accepted the rate suggested in the said sale instance. This not only shows that the Reference Court was considering the material available on record in proper perspective, but also shows that an effort was made to balance the rival claims about the compensation. In para 4, it is seen that the Reference Court has proceeded on the settled footing that when the land of a person is compulsorily acquired for public purpose, he should get reasonable compensation and the word 'reasonable' must be interpreted to mean that the owner should get market value as on the date of notification if he would have sold the land to a willing purchaser in the open market. This basis used by the Reference Court cannot be faulted with. Considering the fact that present acquisition was for the purpose of construction of government quarters, which is a non agricultural use, the Reference Court has found it fit to restrict the claim to a particular rate. The argument of the State that Judgment in LAR No. 84 of 1981 should not have been relied upon, is devoid of merits. Perusal of paragraph 6 of the impugned order shows that the Reference Court has in fact held that the land in said LAR No. 84 of 1981 is not comparable with the acquired land. This shows that said LAR No. 84 of 1981 was not the basis for passing the impugned order.

7. In the considered opinion of this Court, considering the fact that the acquired land was adjacent to Bombay-Agra Road (National

Highway) and further considering that it was acquired for putting to non agricultural use of constructing government quarters (indicating its location value), no fault can be found with the order of the Reference Court.

8. Perusal of the calculations in paragraph 7 of the impugned order shows that other benefits granted by the Reference Court are in the nature of statutory benefits, including 30% solatium and 12% component and therefore, they also do not call for any interference.

9. After reading the impugned order in its entirety and considering that the original amount awarded by the SLAO (Rs.7,461/-) as well as the additional compensation awarded by the Reference Court (Rs. 44,702/-) are both meagre amounts, and enhancement is based on appreciation of evidence and valid reasoning, I do not find any reason to interference. The appeal is without merit and the same is dismissed.

10. 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.

11. Hence the Appeal is dismissed. No order as to costs. In view of the dismissal of Appeal, the Respondent/Claimant or his legal heirs as the case may be, is/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.

12. In view of dismissal of the appeal, all pending applications, if any are also dismissed.

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

[M.M.SATHAYE,J.]