

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 60 OF 1998

The State Of Maharashtra and Anr. ...Appellants.

Versus

Gajanan Dattatraya Nale, deceased through ...Respondents
Smt. Sushila Gajanan Nale And Ors.

Ms. Tanaya Goswami, AGP for Appellant/State.

None for the Respondents

CORAM : M.M. SATHAYE, J.

DATE : 30th NOVEMBER, 2023

P.C. :

1. Heard learned AGP for the Appellant/State. None appeared for the Respondents.

2. By this Appeal, filed under Section 54 of the Land Acquisition Act (for short “the 1894 Act”) the Appellant/State is challenging the Judgment and Order dated 07.04.1997 passed by 2nd Additional District Judge, Kolhapur in Land Reference No. 91 of 1988. By the said impugned Order the learned Reference Court has granted enhancement to the extent of additional amount of Rs. 34,636/- with future interest at the rate of 15% p.a. from 25.04.1988 till the amount is fully satisfied. This additional compensation is granted over and above the amount which was already granted by the Special Land Acquisition Officer under the Award.

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3. Few facts necessary for disposal of this Appeal are as under. The predecessor of the Respondents/Claimants was owner of CTS No. 3687 situated at the main road, Kagal, District Kolhapur. By a notification u/s 126 of the Maharashtra Regional and Town Planning Act, 1966 r/w Section 6 of the 1894 Act, dated 30.11.1986, the Government of Maharashtra has acquired 10.09 Sq. M. portion of the aforesaid property. The Special Land Acquisition officer passed an award granting meagre amount of Rs. 2,957/- towards compensation for acquisition. Being aggrieved and dis-satisfied by the said Order, the Respondents/Claimants filed the said Land Reference u/s 18 of the 1894 Act.

4. The Learned AGP appearing for the Appellant/State has assailed the impugned Judgment and Order on various grounds as raised in the appeal memo.

5. I have carefully considered the impugned Judgment and Order. The reasons are well founded. After appreciation of evidence and after hearing both sides, by a detailed Judgment, the learned Reference court has granted enhanced compensation as stated earlier. Market price of the structures involved as well as evidence of sale instances are considered. Considering the fact that the original amount is extremely meagre to the tune of Rs. 2,957/- only and further considering the fact that the additional compensation amount granted by way of enhancement is also a meagre amount of Rs. 34,636/-, in my considered view there is no reason to interference in the impugned Judgment and Order passed by the Reference Court. The Appeal is devoid of merits.

6. 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 Respondents/Claimants 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 Respondents/Claimants 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.

7. Hence the Appeal is dismissed. No order as to costs. In view of the dismissal of Appeal, the Respondents/Claimants 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.

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

(M.M. SATHAYE, J.)