

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 81 OF 2022
IN
FIRST APPEAL (ST) NO. 23570 OF 2003
WITH
FIRST APPEAL (ST) NO. 23570 OF 2003

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The State of Maharashtra

...Applicant/Appellant

Versus

Sulochana Bhikaji Shingare & Ors.

...Respondents

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

CORAM: M.M.SATHAYE J.
DATE : 6th DECEMBER, 2023

PC. :

CIVIL APPLICATION NO. 81 OF 2022

. This is an application by the State seeking condonation of delay of 58 days in filing the above Appeal. Considering the extent of delay and considering the averments made in the Application, sufficient cause is made out. The Application is allowed in terms of prayer clause (a). Delay is condoned. Appeal be numbered. Interim Application is disposed of accordingly.

FIRST APPEAL (ST) NO. 23570 OF 2003

1. Heard learned AGP for the Appellant/State.

2. This is an Appeal filed under Section 54 of the Land Acquisition Act (for short “the said Act”) challenging the Judgment and Order dated 10.01.2023 passed by the 7th Additional District Judge, Pune, in Land Reference No. 84 of 1994. By the said impugned Judgment and Order, reference was partly allowed and Respondents / Claimants were held entitled to get enhanced compensation of Rs. 28,300/- (Rs. 2451/- for land + Rs. 25,878/- for structure = Rs. 28,329/- rounded off to Rs. 28,300/-) alongwith interest @ 12% p.a. from the date of notification till the date of Award and 30% solatium on the aforesaid enhanced amount. The other statutory benefits of interest @ 9% p.a. for first year and 15% from the start of second year till payment, are also granted.

3. Few facts necessary for disposal of this Appeal are as under. The Respondents were owners of 26.50 sq. mt area including built up area of CTS No. 105 situated at village Wada @@. The said land was notified for acquisition of Chas Kaman Project. Necessary notification under Section 4 of the said Act was issued on 11.09.1986 and Award was declared on 08.11.1989. Under the said Award, a meagre amount of Rs. 42,372/- was awarded for structure and amount of Rs. 199/- was awarded for the land. Being aggrieved

and dis-satisfied by the said award, the Respondents/Claimants filed aforesaid Land Reference seeking enhancement.

4. Learned Reference Court, after hearing both sides and on appreciation of evidence has partly allowed the Reference and granted enhancement as stated earlier.

5. Heard learned AGP for the Appellant-State who has assailed the impugned Judgment as per various grounds mentioned in the appeal memo. None appears for the Respondents.

6. I have carefully considered the impugned Judgment and Order. The reasons given by the learned Reference court is well founded. The Reference Court has considered the measurement Report as well as the evidence of the valuer, in which the value of the affected structure was made and enhancement is granted.

7. Considering the aforesaid facts and circumstances and considering that the original amount of Rs. 42,372/- awarded for the structure and amount of Rs. 199/- awarded towards the land as well as the enhancement granted of Rs. 28,300/- are all meager amounts, no fault can be found with the impugned Judgment and Order. The interest and solatium allowed are statutory in nature and as such there is no question of interference therewith.

8. 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.

9. In that view of the matter, Appeal is devoid of merits and same 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.I

10. All concerned to act upon authenticated or digitally signed copy of this order.

[M.M.SATHAYE,J.]