

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 377 OF 1997

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The State of Maharashtra (through the Special Land Acquisition Officer, National Highway, Nashik.) ...Appellant.

Versus

Punja Bhika Borade ...Respondent

Ms. Tanaya Goswami, AGP for Appellant/State.
None for the Respondent.

CORAM : M.M. SATHAYE, J.

DATE : 4th DECEMBER, 2023

P.C. :

1. Heard learned AGP for the Appellant/State. None for the Respondent.
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 16.12.1993 passed by Joint District Judge, Nashik in Land Reference No. 940 of 1990. By the said impugned Judgment and Order, the amount of compensation is increased by the Reference Court from Rs. 23,004/- granted by the concerned Special Land Acquisition Officer (“SLAO” for short) to Rs. 47,415.50/-.
3. Few facts necessary for disposal of this appeal is as under. The State Government had acquired the land of the Respondent/Claimant for the purpose of Mukane dam in Tal.

Igatpuri, Dist. Nashik viz, Gut No. 528, 514, 597 in the aforesaid village. Notification u/s. 4 of the said Act, was issued in the Government Gazette on 20.01.1983 and Award was declared on 16.03.1987, fixing the rate at Rs. 11,000/- per hectare for Gut No. 528 and Rs. 10,000/- and Rs. 16,500/- for Gut No. 514 and Rs. 8500/- for Gut No. 597. The total amount held payable by the SLAO to the Respondent/Claimant worked out to be Rs. 23,004/-.

4. Being aggrieved and dissatisfied by this award, the Respondent/Claimant filed the aforesaid Land Reference.

5. Learned AGP for the Appellant/State has assailed the impugned Judgment and Order as per grounds raised in the appeal memo.

6. I have carefully considered the reasoning given in the impugned Judgment and Order by the Reference Court. The reasons are well founded. Perusal of the Judgment shows that the Learned Reference Court relied upon a Judgment passed in another Reference being Land Reference No. 201 of 1988.

7. The impugned Order records that undisputedly notification u/s 4 of the said Act dated 20.01.1983 in the present matter governs both present subject matter lands as well as land in the aforesaid L.R. No. 201 of 1988, belonging to same village. It is also undisputed that the purpose of the acquisition of the present lands as well as that of land acquired in the aforesaid L. R. 201 of 1988 was also same, viz. for construction of Mukane Dam. Therefore considering the well settled principal that while fixing market price of

similarly situated lands acquired under same Notification from the same village for the same purpose should be treated equally, calculations are made by the Reference Court and enhanced amount is arrived at as explained above

8. Record further shows that the State had filed First Appeal No. 348 of 1994, challenging the Judgment and Order passed in the said L.R. No. 201 of 1988, which was dismissed. In the aforesaid facts and circumstances therefore, it is clear that the basis of the present impugned Judgment and Order is already confirmed by this Court.

9. In that view of the matter and Considering the reasoning adopted by the Reference Court and also considering that the original amount of compensation i.e. Rs. 23,004/- as well as enhanced amount granted of Rs. to 47,415.50/- are both meagre amounts, no fault can be found with the impugned Judgment and Order. The other benefits given by the Reference Court over the enhanced amount are statutory benefits in the form of interest and solatium and as such there cannot be any interference in the said amounts.

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 is 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.

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

(M.M. SATHAYE, J.)