

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 645 OF 1995

The State Of Maharashtra (Through the Special Land Acquisition Officer, Nashik. ...Appellant.

Versus

Gangadhar Laxman Sale (since deceased through legal heirs) ...Respondents
A- Baban Gangadhar Sale and Ors.

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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. Record shows that the Respondent Nos. 1-A, 1-B and 1-G are reported to be dead. No applications for legal heirs of said Respondents are filed by Appellant/State till date. Therefore by operation of Law this appeal is already abated as against Respondent Nos. 1-A, 1-B and 1-G and remaining Respondents have been served. 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 has challenged the Judgment and Order dated 06.12.1993 passed by 2nd Additional

District Judge, Nashik in Land Reference No.124 of 1986. By the said impugned Order, the Appellant/State is directed to pay to Respondents/Claimants additional compensation of Rs. 26,808/- with solatium at the rate of 30% percent. The Respondents/Claimants is also held entitled for additional amount payable on market value under Section 23(1-A) of the 1894 Act @ 12 % p.a. from 17.05.1984 to 17.08.1985.

3. Brief facts necessary for disposal of this appeal are as under. The original Respondent/Claimant was the owner of Gut No. 224 admeasuring 1 hectare and 24 Are alongwith 4 Are of pot kharaba at village Pimpalas Tal. Niphad District Nashik. The said land was notified under Section 4 of the 1894 Act, for the purpose of acquisition of construction of 33/11 K.V. Sub Station by Maharashtra State Electricity Board. The Land Acquisition Officer passed an award on 31.07.1985 and treated the Claimant's land as Jirayat group No. I and awarded compensation @ Rs.7,316/- per hectare and @ Rs.200/- per hectare for pot kharab. The amount awarded was worked out to Rs. 9,079.84 only.

4. Being aggrieved and dis-satisfied by this award, the Respondents/Claimants filed the aforesaid Land Reference and sought enhanced compensation. The learned Reference Court after hearing both sides and on appreciation of evidence, including sale instances, has granted enhancement as stated earlier.

5. Learned AGP appearing for the Appellant/State has assailed the impugned Judgment and Order on various grounds as

raised in the appeal memo.

6. I have carefully considered the impugned Judgment and Order and the reasoning mentioned therein for the figures arrived at of enhanced compensation. The reasons are well founded. The rate claimed by the Respondents/Claimants was @ Rs. 75,000/- per hectre; however the Reference Court has granted it @ Rs. 29,600/- per hectre only, working out to be Rs. 37,888/-. SLAO had awarded and amount of Rs. 9,079.84/-. Therefore the enhanced amount is worked out at Rs. 26,808/-. However, on close scrutiny it is found that there is arithmetic mistake because Rs. 37,888/- minus (-) Rs. 9,079.84/- works out to Rs. 28,808/-.

7. Considering the fact that original compensation was only 9,079.84/- and the additional compensation is also meager Rs. 28,808/-, in my considered view that no interference is called for in the impugned Judgment and Order passed by the Reference Court, except for arithmetic correction as indicated above. Hence, in the operative part of the impugned Order, the figure “Rs. 26,808/-” stands substituted by “Rs. 28,808/-” Rest of the impugned Order is confirmed.

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 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.

9. Hence the Appeal is dismissed, except for correction in the operative part of the impugned Order. No order as to costs.

10. 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. State is directed to pay additional amount, as per correction ordered above.

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

(M.M. SATHAYE, J.)