

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

FIRST APPEAL NO. 2251 OF 2008
WITH
INTERIM APPLICATION NO. 3807 OF 2019

1. Sharad Bapu Sawant,
 2. Meena Shridhar Sawant,
 3. Pushpa Vishnu Sawant (deleted)
 4. Suhas Vishnu Sawant,
 5. Pradeep Vishnu Sawant,
 6. Sau. Shubhangi Subhash Salve,
 7. Sau. Suvidya Prakash Surve,
- Appellant Nos.3 to 7 are the heirs and
legal representatives of Vishnu Bapu
Sawant and Appellant Nos.4 to 7 are
heirs of Appellant No.3,
All residing at 58, Gurumai, Nachane,
Taluka and District Ratnagiri.

... Appellants
(Orig. Claimants)

V/s.

1. Special Land Acquisition Officer
No.1 through Collector, Ratnagiri.
2. Executive Engineer,
Environmental Engineering Division,
Construction Department, Ratnagiri
(Water Supply, Ratnagiri).
3. The State of Maharashtra.

... Respondents.

Mr.Vijay Kantharia with Ms.Shubhada S. Salvi for the Appellants.
Mr.A.R.Patil, Addl. G.P. for the Respondents- State.

**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE : 1 December 2023.

JUDGMENT : (Per Nitin Jamdar, J.)

This is a case where we are constrained to set aside the impugned judgment and order of the learned Civil Judge in Land Acquisition Reference and remand the proceeding on the sole ground that is bereft of any reasoning whatsoever.

2. The impugned judgment and order does not give any details. Neither does it give specifications of the properties under acquisition nor the relevant dates such as the date of notification under section 4 of the Land Acquisition Act, 1894, date of notification under section 6 of the Act. With the assistance of the learned counsel for the parties, by going through the award and the Reference, we can gather certain basic facts. These are as follows,

3. The Appellant owned three properties, that is, Survey No.385 Hissa No.01/1/1 admeasuring 8 H. 75 R., Survey No.389 Hissa No.1-B admeasuring 9 H. 64 R. and Survey No.389 Hissa No.1-B admeasuring 2 H. 61 R. A scheme for supply of water to Ratnagiri city was moved by the State Government. A notification

under section 4 of the Land Acquisition Act was issued on 31 March 1999 which was published in the newspaper in July 1999. It was also duly notified on the site. The notification under section 6 of the Land Acquisition Act dated 23 May 2000 was published in the newspaper in June 2000. The objections were received under section 5A of the Act and thereafter notice under section 9 was issued on 27 July 2000. The Land Acquisition Officer proceeded to pass an award on 31 December 2001. In the award, the Land Acquisition Officer after considering the total lands affected by the notification grouped them in different categories such as land admeasuring 0 to 10 R; 11 to 40 R; 41 R to 2 H.; and 2 H. to 6 H. As regards the Appellants' land which admeasures a total of 6 H. was acquired for and total compensation of Rs.1,68,98,408/- plus establishment charges of Rs.16,89,84/-. Thus, the total was Rs.1,85,88,241/-.

4. Being aggrieved, the Appellants filed a Reference bearing No.2/2004 in the Court of Civil Judge, Senior Division, Ratnagiri (the trial Court) seeking enhancement. The primary contention of the Appellants was that the methodology adopted by the Special Land Acquisition Officer for grouping the lands and carrying out deductions under the instructions issued by the State Government dated 3 December 2001 was incorrect and the flat rate of Rs.1.25 lakh per acre should have been awarded.

5. The trial Court, as stated earlier, disposed of the Reference by judgment and order dated 1 November 2007 without giving basic details. Up to paragraph- 9, the trial Court referred to the facts without giving necessary details. Then in paragraphs 10 and 11, submissions are recorded. Then in paragraphs- 12 to 14, the trial Court discussed whether the Reference was in limitation. Then in paragraphs- 15 to 17, a passage from the decision of the Supreme Court is quoted and the only reasoning given is found in paragraph- 18 which reads thus:

“18. I have gone through sale-deeds produced by the claimants, it appears, in the year 1995 to 1997, transactions were entered into of the lands mentioned in sale deeds from Rs.1,00,000/- to Rs.2,00,000/- per ARE. If transactions referred in Award Exh. 5 are seen, then it reveals, rate per ARE was from Rs.1,200/- to 1,00,000/- approximately. Thus, on an average, market price per ARE was Rs.60,000/-, that too it was for the N.A. Land/and plots. It is admitted position land under reference was not N.A.land, so 25% deduction by way of development charges needs to be made, then valuation of the property for the first Ten AREs comes to Rs.45,000/- per ARE and definitely remaining land would fetch proportionate amount. In short, S.L.A.O. was supposed to fix market price of the land for first ten AREs Rs.45,000/- and proportionate price for the remaining land, however, it not happened. Thus, my conclusion, is that valuation made by the S.L.A.O. is unjust and inadequate. In view of the discussion made, I have come to the conclusion, that claimants are entitled to get enhancement in compensation. To my Opinion, claimants are entitle to get additional compensation amount per ARE Rs.2,000/- for first Ten AREs for remaining land i.e. from 11 to 40 AREs, Rs.1,200/- (i.e. 60% of Rs.2,000/-) per ARE and from 41 and onwards Rs.800/- per ARE. (i.e. 40% of Rs.2000) Claimants are entitled to get other statutory benefits like Solatium, Component and Interest allowable U/s. 28 of Land Acquisition Act, 1894.

Thereupon the trial Court has allowed the appeal by the following operative order:

“ Reference is allowed in following terms :-

- 1. Referee Nos.1 & 2 are directed to pay additional compensation amount to the claimants @ Rs.2,000/- per ARE for 1 to 10 AREs (first ten AREs), for remaining land i.e. From 11 to 40 AREs, @ Rs.1,200/- per ARE and for 41 and onwards @ Rs.800/- per ARE, for land admeasuring Six (6) Hectares.*
- 2. Claimants are entitled to get 30% Solatium and 12% Component on enhanced compensation amount as per rules.*
- 3. Enhanced compensation shall carry Interest @ 9% p.a. from the date of taking possession i.e, from 1-11-1988 till one year and thereafter @ 15% p.a. till payment is made U/s. 28 of Land Acquisition Act, 1894.*
- 4. Claimants are entitled to get enhanced compensation amount by equal share/mutual agreement.*
- 5. Parties to reference shall bear their own costs.*
- 6. Award be drawn up accordingly.*

6. The Reference application filed by the Appellants before the trial Court is on record. It is a detailed application whereby several contentions are raised by the Appellants. Even in the first appeal before us, the Appellants have raised various contentions, primarily that of the mode adopted for arriving at the compensation by the Land Acquisition Officer. Proceeding on the basis that the

award is an offer and the burden is on the claimant to justify enhancement, there is no discussion in the impugned order of the case of the Appellants at all. With absolutely no reasoning, the trial Court has disposed of the Reference. We have no guidance as to how the trial Court has arrived at the conclusion. Once Reference was filed before the trial Court whereby enhancement was sought by leading evidence, the trial Court was expected to analyze the evidence and decide the matter by giving reasons. Unless reasons are given, the appellate Court will not be able to ascertain whether the exercise of discretion and evaluation of the evidence by the trial Court was proper or otherwise.

7. The learned counsel for the Appellants makes a grievance that the matter is old and the compensation has been delayed. That may be so, but for a complete lack of reasoning in the impugned order and to inculcate discipline, we are constrained to set aside the same. The prejudice to the Appellants by delay can be cured by directing expeditious disposal of the Reference in time bound period. Since the evidence has already been led and all the material is before the trial Court, after hearing the arguments within a time-bound period, the trial Court can pass necessary orders with reasons.

8. The learned counsel for the parties inform that it will not be necessary to lead further evidence which is already on record.

9. Accordingly, we set aside the impugned judgment and order dated 1 November 2007 restoring the Land Reference No.2/2004 before the trial Court. The matter be listed before the Civil Judge on 3 January 2024. Thereupon, the trial Court will set out a timetable for hearing the arguments of the counsel for the parties. The trial Court will pass a reasoned judgment and order within three months from the date of the conclusion of the oral hearing.

10. The Registry will send the record, which has been received by this Court, by way of Special Messenger so that it reaches the learned Civil Judge, Ratnagiri before 3 January 2024.

11. The First appeal is disposed of in the above terms.

12. In view of disposal of first appeal, the interim application does not survive and stands disposed of accordingly.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)