

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 464 OF 2000
WITH
CIVIL APPLICATION NO. 228 OF 2001
IN
FIRST APPEAL NO. 464 OF 2000**

The State of Maharashtra ...Appellant /Applicant
Versus
Trimbak Shankar Unhale and Ors. ...Respondents

**SNEHA
NITIN
CHAVAN**

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Ms. Tanaya Goswami for the Appellant/State.
Ms. Bhavna Khemani i/b Aneel Ahuja for the Respondents.

**CORAM : M.M.SATHAYE J.
DATE : 11th DECEMBER 2023**

PC. :

1. Heard learned AGP for the Appellant/State and learned counsel for the Respondents/Claimants.

2. This is an appeal by the State under Section 54 of the Land Acquisition Act, 1894 (for short 'the said Act') challenging the common Judgment and Order passed in 6 land References including present Land Reference No. 485 of 1990. By the impugned Order, the Reference Court has granted enhancement of Rs.21,921/- by partly allowing the reference. The Respondents/Claimants are also held entitled to the statutory benefits of interest and solatium on the amounts granted.

3. Few facts necessary for disposal of this appeal are as under. 0.11 Ares area out of land of the Respondents/Claimants bearing Gat No. 461/P situated at village Ahergaon, Tal.Niphad, District Nashik was acquired for the purpose of construction of Ozharkhed Left Bank Canal. The notification under Section 4 of the said Act was published on 20.02.1986 in the Government Gazette and the Special Land Acquisition Officer (for short 'SLAO') declared his Award on 08.09.1989. The concerned SLAO by its award granted meagre compensation of Rs.3,410/- to the Respondents/Claimants.

4. Being aggrieved and dissatisfied by the said Judgment and Order, the Respondents filed aforesaid Reference under Section 18 of the said Act. Learned Reference Court, after hearing both the sides and on appreciation of evidence has granted total enhanced compensation of Rs.27,718/- and after adjusting the amount granted by SLAO has effectively granted additional amount of compensation of Rs.21,921/-. The Reference Court has also granted statutory benefits on the amounts granted.

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

6. I have carefully considered the impugned judgment and order. The reasons on which enhancement is granted are well founded. The Reference Court has considered the comparable sale instances of lands from the same village and has also considered that the Respondent/Claimants have proved by cogent evidence that their

lands are *bagayat* (irrigated) lands and therefore, they are entitled to increased rate of compensation because their lands have more yielding potential.

7. In the aforesaid facts and circumstances, considering the fact that the original total amount awarded by the SLAO (Rs. 3,410/-) & total enhanced amount granted by the Reference Court (Rs.21,921/-) are both meagre amounts and they are granted on valid basis, no fault can be found with the impugned Judgment and Order. The entitlement of the Respondents/Claimants held for payment of interest, is statutory in nature and as such, there is no question of interference in the same.

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 / 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.

9. 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.

10. In view of dismissal of the appeal, all pending application/s is /are also dismissed.

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

[M.M.SATHAYE,J.]