

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4160 OF 2021
WITH
INTERIM APPLICATION NO. 4161 OF 2021
WITH
INTERIM APPLICATION NO. 4162 OF 2021
WITH
INTERIM APPLICATION NO. 4163 OF 2021
WITH
INTERIM APPLICATION NO. 4164 OF 2021
IN /WITH
FIRST APPEAL NO. 213 OF 1993

Digitally
signed by
TALLE
SHUBHAM
ASHOKRAO
Date:
2023.12.15
15:57:46
+0530

The State of Maharashtra Through the Collector,
Kolhapur.

...Applicant/
Appellant

Versus

Mahadev Bapu Patil (deceased through his legal
heirs) 1. Smt. Sonabai Mahadeo Patil (deceased)
& ors

...Respondents
(Org
Claimants)

Ms. Tanaya Goswami, AGP for Applicant/State.

None for the Respondents.

CORAM : M.M. SATHAYE, J.

DATE : 14th DECEMBER, 2023

P.C. :

1. Heard learned AGP for Applicant/State. This appeal is arising out of Land Acquisition Act. The status of pending Applications as of today, is as under :

- a) Interim Application No. 4160 OF 2021 is filed by the State for bringing legal heirs of deceased Respondent No. 1 on record in which there is a delay of 12 years and 59 days.
- b) Interim Application No. 4161 OF 2021 is filed by the State for bringing legal heirs of deceased Respondent No. 2 on record in which there is a delay of 14 years and 243 days.
- c) Interim Application No. 4162 OF 2021 is filed by the State for bringing legal heirs of deceased Respondent No. 3 on record in which there is a delay of 20 years and 357 days.
- d) Interim Application No. 4163 OF 2021 is filed by the State for bringing legal heirs of deceased Respondent No. 4. on record in which there is a delay of 12 years and 59 days.
- e) Interim Application No. 4164 OF 2021 is filed by the State for deleting the name of deceased Respondent No. 5 from the record, since she has died leaving behind no legal heirs.

2. The reason for delay given in all these Applications is that the State came to know in October, 2021, about the concerned Respondents being dead, when the matter was listed before the Registrar and the notices returned unserved with bailiff's remark reporting concerned Respondents "Dead". It is contended in all the Applications that thereafter, the office of the Government Pleader has entered into correspondence with the concerned Deputy Collector Kolhapur, and ultimately in November, 2021 the necessary details,

such as date of death and details of proposed legal heirs were informed. It is contended that thereafter immediately in November, 2021 itself the above Interim Applications are filed. In short in all the Applications the reason offered is lack of knowledge.

3. In the aforesaid circumstances, the whole appeal in fact has abated today. But assuming that the State has excellent case for condonation of delay, and further assuming that the delay is condoned, the Appeal will have to be considered on merits and the rights and shares of the proposed Respondents in the compensation, will have to be taken care of.

4. In that view of the matter this Court has taken up the main Appeal for hearing on merits itself.

5. Heard learned AGP for the Appellant/State. None for the Respondents.

6. 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 09.04.1991 passed by 2nd Additional District Judge Kolhapur, in a group of references, including present subject matter Land Reference No. 12 of 1987. By the said impugned Judgment and Order, the learned Reference Court has granted additional enhancement Rs. 45,812.50/- to Respondents claimants.

7. Few facts necessary for disposal of this appeal are as under. The Respondent/Original Claimant was the owner of R.S. No. 22 admeasuring 48 Ares of village Tambalaiwadi, Dist. Kolhapur was

acquired for the purpose of Timber Market. Necessary notification u/sec. 126 of the Maharashtra Regional Town Planning Act r/w Section 6 of the said Act, was published on 10.12.1981. The concerned Special Land Acquisition Officer, ('SLAO' for short) fixed the market value of the subject matter land at Rs. 20/- per sq. meter and granted total compensation of Rs. 65,562.50/-.

8. Being aggrieved and dissatisfied by this Order, the Respondent/Claimant filed the aforesaid Land Reference. After hearing both sides and after considering the evidence on record, the Reference Court has allowed the reference and total enhancement has been granted as stated above.

9. Learned AGP for the Appellant/State has assailed the impugned Judgment and Order as per grounds raised in the appeal memo. Learned AGP, contended that more reduction should have been granted towards the development costs. Nobody appears for the Respondents.

10. I have carefully considered the reasons given in the impugned Judgment and Order. The Reference Court by relying on Judgment of this Court in the case of State of Maharashtra v/s. Nanabhai Rathod (***AIR 1989 Bom. Page 9***), has allowed the development costs reduction @ 25% of the market value. It has held that the SLAO was not justified in reducing the rate from Rs.50/- to Rs. 20/- because it was a developed plot. Thus in para 13 of the impugned Order, amount at the rate granted by the SLAO (i.e. @ Rs. 50/- per sq. meter) is considered and amount of Rs. 82,500/- is

arrived at. Reduction of development cost @ 25% is applied. Thereafter statutory benefits of solatium and additional compensation @ 12% p.a. is applied. Thereafter amount actually paid by the SLAO is deducted and finally, additional enhancement of Rs. 45,812.50/- has been arrived at.

11. The said reasons, in the opinion of this Court are well founded and based on Judgment of this Court itself. In that view of the matter and also considering the fact that the actual additional amount of Rs. 45.812.50/- granted by Reference Court itself is a meagre amount, no fault can be found with the impugned Judgment and Order.

12. 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.

13. Hence the above Appeal is dismissed. No order as to costs. All Interim Applications are also disposed of.

14. However, rights of the said proposed legal heirs of deceased Respondents will have to be taken care of. Therefore, in view of the dismissal of Appeal, the Respondents/Claimants including their proposed legal heirs 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.

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

(M.M. SATHAYE, J.)