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

WRIT PETITION NO.13463 OF 2023

Bhagwan Ganpat Patil (Since Deceased)

Through Legal Heirs

Tulshiram Bhagwan Patil

... Petitioner

V/s.

The State of Maharashtra Through

Special Land Acquisition Officer & Ors

... Respondents

Mr. Shriram S. Kulkarni, for Petitioner.

Mr. P. P. Pujari, AGP for State-Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 3, 2023

P.C.:

1. By the impugned order dated 7 June 2023, the Reference Court under Section 18 of the Land Acquisition Act, 1894 has rejected petitioners application seeking permission to lead their further evidence.

2. It appears that by virtue of notification under Section 4 of Land Acquisition Act, 1894 on 24 September 1986 the property of petitioners was acquired for New Bombay Project. On 18 September 1989, the award under Section 11 of the Land Acquisition Act, 1894 was passed. The petitioners, therefore, in

the year 1990 made a reference under Section 18 of the Land Acquisition Act, 1894 seeking enhancement of compensation.

3. On 31 March 2022, the petitioners filed affidavit-in-lieu of examination-in-chief. On 4 February 2023, the Reference Court closed petitioners evidence *vide* order passed below Exhibit 1.

4. On 28 April 2023, the petitioner filed an application for recalling of order dated 4 February 2023 seeking permission to lead evidence.

5. By the impugned order, the Reference Court rejected application below Exhibit 60.

6. On perusal of the record, it appears that the petitioners land was acquired in the year 1990. He is yet to be received enhanced compensation. Examination-in-chief is filed in the year 2020. The claimant's cross is over on 16 April 2022.

7. Considering the nature of rights of claim in land acquisition proceeding, the Reference Court ought to have granted opportunity to the claimant to place on record all material evidence which justifies petitioners claim for enhancement of compensation. Therefore, considering the reason mentioned in the application, the Reference Court ought to have allowed the claim to lead evidence of valuer in support of his claim. Hence, following order:

a) The impugned order dated 7 June 2023 below Exhibit 60 in LAR No.521 of 2000 passed by the 2nd Joint Civil Judge, Senior Division, Alibaug is quashed and set aside.

- b) The petitioner's application below Exhibit 60 is allowed.
- 8. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)