

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 17475 OF 2023
IN/WITH
FIRST APPEAL NO. 908 OF 2002

State Of Maharashtra Through The Special Land Acquisition Officer No. 19 ...Applicant/
Appellant

Versus

Dagadu Bapu Dagade ...Respondent

TALLE
SHUBHAM
ASHOKRAO

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TALLE SHUBHAM
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Date: 2023.12.05
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Mr. Tanaya Goswami, AGP for Applicant/State.

None for the Respondent.

CORAM : M.M. SATHAYE, J.

DATE : 30th NOVEMBER, 2023

P.C. :

IN INTERIM APPLICATION NO. 17475 OF 2023

1. This is an Application by State for restoration of the Appeal which was dismissed pursuant to Conditional Order dated 18.04.2023 for non deposit of the paperbook charges in the Lower Court within a stipulated time. There is delay of 140 days in filing the Application.

2. Heard learned AGP for the Applicant State. Since the appeal was dismissed on technical ground and that too in the absence of both Appellant / State and Respondent/Claimant, service to Respondent is dispensed with.

3. Considering the averments made in the Application and the extent of delay, sufficient cause is made out. Therefore the Application is allowed in terms of prayer clause (b) and (c). Delay is condoned. The First Appeal is restored to file. The Interim Application is disposed of.

IN FIRST APPEAL NO. 908 OF 2002

1. Heard learned AGP for Appellant/State. None for the Respondent.

2. 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 30.03.2000 passed by 12th Additional District Judge, Pune in Land Reference No. 167 of 1990. By the said impugned Judgment and Order, the present Respondent/Claimant has been granted enhancement of the amount of Rs. 5,428/-.

3. Few facts necessary for disposal of this appeal is as under. The State Government had acquired the land of the Respondent (PT 0.59 out of Gat No. 302 of Village Rui, Tal. Indapur, Dist. Pune) for New Mutha Right Bank Canal Division No. 3. Section 4 notification was issued on 20.02.1986 and the Award was declared on 18.02.1988, under which a meagre amount of Rs. 4425/- was awarded. The Respondent/Claimant, being aggrieved and dissatisfied by this award, filed the aforesaid Land Reference. After hearing both sides and after considering the evidence on record, the Reference Court has granted enhancement of Rs. 5428/- only.

4. Learned AGP for the Appellant/State has assailed the impugned Judgment and Order as per grounds raised in the appeal memo.

5. I have carefully considered the reasoning given in the impugned Order by the Reference Court. The Reasoning is well founded. Considering the fact that the amount originally awarded as well as the amount which was awarded as enhanced amount are extremely meager viz. Rs. 4425/- and Rs. 5428/- respectively, no fault can be found with the impugned Judgment and Order and this Court is not inclined to interfere.

6. 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.

7. 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 already deposited by the State in the Reference Court along with accrued interest, if not already withdrawn.

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

(M.M. SATHAYE, J.)