



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

929 WRIT PETITION NO. 5637 OF 2024

Venkat Laxmanrao Kulkarni

VERSUS

The State Of Maharashtra Through The Collector And Others

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Advocate for the Petitioner : Mr. K.M. Nagarkar

AGP for Respondents : Mr. K.B. Jadhavar

CORAM : S. G. CHAPALGAONKAR, J.

Dated : June 14, 2024

PER COURT :-

1. By this writ petition, the exception is taken to the order dated 28.12.2018 passed by the Land Acquisition Officer, Medium Project-2, Osmanabad, by which the application filed by the petitioner under section 28-A of the Land Acquisition Act 1894 has been rejected.

2. Heard Mr. Kiran Nagarkar, learned advocate appearing for the petitioner. The learned AGP appearing for the respondents/State.

3. Mr. Nagarkar, learned advocate appearing for the petitioner submits that house property of the petitioner was acquired under the Award dated 21.1.1988 for construction of the Raygavhan Medium Project, Tq. Kallamb. He submits that the Land Acquisition Officer had assessed inadequate compensation towards houses. Aggrieved by inadequacy of compensation, references under section 18 of the Land Acquisition Act were filed by some land owners. The

Reference Court granted enhanced compensation to those persons vide judgment and award dated 24.8.2007. Consequently, petitioner moved an application under section 28-A seeking similar compensation in respect of his acquired property. However, under the impugned order, his claim has been rejected observing that no evidence is recorded by the petitioner to support his claim.

4. Mr. Nagarkar would submit that only because the petitioner could not lead evidence, his application could not have been dismissed at threshold. The L.A.O. was under obligation to look into the award passed under section 18 of the Act and based on the observations made therein additional compensation could have been awarded to the petitioner.

5. Learned AGP points out that since petitioner's claim pertains to acquisition of the house property and compensation is awarded based on the survey reports, wherein valuation of each of the property is independently determined for each house property. There is nothing comparable between the property of the petitioner and the properties of the other persons, who are held entitle for the enhanced compensation under the Award passed under section 18 of the Act. He would further submit that the impugned order is passed in the year 2018 and present petition is filed after six years without rendering explanation for inordinate delay.

6. Having considered the submissions advanced, it is apparent that the house no.60 owned by the petitioner was

subject matter of the acquisition. Compensation of Rs.7,738/- was assessed under the Award passed by the Land Acquisition Officer.

7. Although, enhanced compensation has been granted to some of the house owners under section 18 of the Land Acquisition Act, apparently, petitioner could not produce any evidence to show that his property was comparable with the properties under the award of the Reference Court. Land Acquisition Officer has observed in impugned order that the petitioner failed to lead evidence particularly as regards to valuation of his property. Therefore, no benefit under section 28-A can be extended in his favour. No fault can be found with the observations made in the impugned order.

8. As rightly pointed out by Mr. Jadhavar, learned AGP appearing for the state, present petition is filed after six years of passing the impugned order. There is no explanation for inordinate delay. Therefore, no case is made out to cause interference under Article 227 of the Constitution of India. Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

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aaa/-