



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

75 FIRST APPEAL NO. 3078 OF 2022

GHANSHAM LALJIDHAS BHATTIYA (DIED) THR LRS RAJESH
AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Appellant : Mr. Shinde Avinash R. and Mr.Rodge
S.N
AGP for Respondents/State : Mr. G.O. Wattamwar
Advocate for Respondent No.3 : Mr.Ram B. Deshpande
...

CORAM : KISHORE C. SANT, J.

DATE : 29th JULY, 2024.

PER COURT :

1. Heard the parties for some time.
2. This appeal is preferred by the legal representatives of the original Claimant No. 1 Ghanashyam Laljidhas Bhatiya who died on 27.01.2012. By Subhash Laljidhas Bhatiya i.e. original Claimant No. 2.
3. The challenge is to the judgment and award passed

by the learned CJSD, Vaijapur under the Land Acquisition Reference No. 16 of 2013 dated 11.11.2016.

4. The facts in short are that the respondents have acquired land of the appellants vide notification under Section 4 (1) of the Act, which came to be published on 17.08.2006. In the award the rate granted is Rs. 990/- by the SLAO vide award dated 17.12.2006. The claimants approached the learned Collector under Section 18 of the Land Acquisition Act. The learned Collector referred the matter to the reference Court. Though the matter was in the reference Court since 2013 till 11.11.2016, the claimant failed to adduce any evidence before the reference Court. The Court therefore, dismissed the reference as no evidence was adduced.

5. Learned Advocate for the appellants vehemently argued that no sufficient opportunity was granted to the claimants and the claimants were unaware about the leading the evidence, though they were represented by a lawyer. No notice was issued to the claimants when the Advocate failed to take steps.

6. On affidavit it is submitted that the deceased Ghanashyam who was looking after the Court work died on 27.01.2012. The legal representatives/claimants were not having knowledge of the Court proceedings and therefore, they also could not take any steps to produce any evidence. They got knowledge only after their claim petition came to be dismissed that too after a year or so and thereafter they prepared appeal after the period of some days. The learned Advocate thus submits that the present appeal needs to be remanded so as to give an opportunity to the claimants to produce evidence before the Court.

7. The appeal is vehemently opposed by Shri Ram Deshpande, learned Advocate for respondent No. 3.

8. Learned AGP also opposed the appeal for respondent Nos. 1 & 2.

9. Heard the parties.

10. From the judgment and record, it is clearly seen that

no steps were taken to produce the evidence on record by the original claimants, however, considering the fact that the deceased Ghanashyam died on 27.01.2012, there is possibility of the applicants not getting the knowledge of the Court proceedings.

11. Since the appellants are the persons whose lands are acquired, it would be in the interest of justice to remand the reference to the trial Court on certain conditions.

12. Mr. Deshpande, learned Advocate has rightly pointed out the judgment in the case of Ramanlal Deochand Shaha Vs. State of Maharashtra and Anr, reported in AIR 2013 SC 3452, wherein, the Hon'ble Apex court though remanded the matter observed that on remand the applicants therein will not be entitled to receive the interest for the period from the date of the dismissal of the reference till the date of the order of remand of the reference.

13. This Court finds that the land is only 9R and the appellants are the poor persons, hence following order will meet

the ends of justice. Hence the order :

ORDER

- a) The First Appeal is partly allowed.
- b) The Reference is remanded to the Court of learned Civil Judge, Senior Division, Vaijapur for fresh decision by giving an opportunity to lead evidence to the appellants.
- c) It is made clear that the appellants shall not be entitled to receive interest from 11.11.2016 till today.
- d) The trial Court to decide the reference before 31.03.2025 in any case.
- e) Appellants shall lead the evidence before February 2025 without seeking unnecessary adjournments.
- f) The appellants shall not entitled to receive the interest.
- g) This order shall be subject to cost of Rs. 5,000/- (Rs. Five Thousand Only) to be paid to the Legal Aid Services Authorities, Sub Committee, High Court Aurangabad within a

period of two weeks from today.

(KISHORE C. SANT)
JUDGE

mahajansb/