



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

995 FIRST APPEAL NO. 1616 OF 2007

Mohansing s/o Kondiram Rajupt,
Age 70 years, Occupation Agri.,
R/o Bendwadi (Parsoda) Taluka
Vaijapur Dist.Aurangabad.

...Appellant

VERSUS

The State of Maharashtra,
Through Special Land Acquisition,
Aurangabad.

...Respondent

...
Advocate for Appellant : Mr. A. B. Kale
AGP for Respondents: Mr. V. M. Chate
...

**WITH
CIVIL APPLICATION NO. 9104 OF 2015
IN FA/1616/2007**

....
CORAM : ARUN R. PEDNEKER, J.
Dated : January 25, 2024

ORAL JUDGMENT :-

1. Heard the learned Advocate appearing on behalf of the parties.
2. The learned Advocate for the appellant submits that the Reference court has dismissed the Reference as far as enhancement of compensation in respect of trees, borewell, cattle shed, and structures situated on acquired land on account of failure to lead evidence by the claimant. The learned Advocate for the appellant has relied upon the decision of Hon'ble Supreme Court in *Ramanlal Decoahnd Shah*

Versus State of Maharashtra and Anr. WITH Kantilal Manikchand Shah (Since deceased by his LRs.) Versus State of Maharashtra and Anr., reported in AIR 2013 Supreme Court 3452, wherein paragraph 14 runs as under : -

"The failure or the omission to lead evidence to prove the claim appears in the above context to be a case of some kind of misconception about the legal requirement as to evidence needed to prove cases of enhancement of compensation. We do not in that view see any reason to deny another opportunity to the landowners to prove their cases by adducing evidence in support of their claim for enhancement. Since, however, this opportunity is being granted ex-debito justitiae, we deem it fit to direct that if the Reference Court eventually comes to the conclusion that a higher amount was due and payable to the appellant-owners, such higher amount including solatium due thereon would not earn interest for the period between the date of the Judgment of the Reference Court and the date of this order. These appeals are with that direction allowed, the judgments and orders impugned in the same modified to the extent that while the enhancement order by the Reference Court shall stand set aside, the matters shall stand remanded to the Reference Court for a fresh disposal in accordance with law after giving to the land owners opportunity to lead evidence in support of their claims for higher compensation."

3. The learned Advocate for the appellant also submits that he be

permitted to lead evidence in respect of the above and that he would not claim interest or statutory benefits for the delay period.

4. The learned AGP has opposed the appeal on the ground of huge delay in filing of the first appeal and further submits that in the event the Court remit the matter back to the Reference Court, the appellant be not granted interest and statutory benefits from the date of Reference Court award i.e. 25/04/1997 till date.

5. In view of the submissions made, the matter is remitted back to the Reference Court to decide the amount of compensation only as regards a valuation of trees, borewell, shed and structure on the land.

6. Relying upon the Judgment Cited above in *Ramanlal (Supra)* it is directed that in the event the appellant succeeds in the Reference, the Reference Court would not grant any interest or statutory benefits for the period from the date of the Judgment dated 25/04/1997 till filing of an application dated 21/08/2015 to lead evidence in the First Appeal.

7. The appeal is disposed of. Pending application stands disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.