



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

FIRST APPEAL NO.1142 OF 2018

Patloba s/o. Laxman Latpate,
Age: 75 years, Occu. Agril.
R/o. Kodri. Tq. Gangakhed,
Dist. Parbhani.

... Appellant
(Orig. Claimant)

Versus

1. The State of Maharashtra,
Through the Collector, Latur
2. The Special Land Acquisition Officer,
V.P. No.II, Parbhani.
3. The Executive Engineer,
Minor Irrigation Division, at Parbhani.

...Respondents

...

Mr. Gajanan K. Sontakke, Advocate for Appellant
Mr. D.B. Bhangre, AGP for Respondent Nos.1 & 2
Mr. Ram B. Deshpande, Advocate for Respondent No.3

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 28th AUGUST, 2024

ORAL JUDGMENT :

1. Heard.
2. Admit. Taken up for final hearing with the consent of the parties.
3. This appeal filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the said Act'), challenges judgment and award dated 08/12/2011, passed by learned Civil Judge, Senior Division, Gangakhed, District Parbhani, in L.A.R. No.01/1998.
4. Land of appellant/claimant admeasuring 92 R out of Gut

No.637, situated at village Kodri, Tq. Gangakhed, was acquired for Kodri Tank. Notification under Section 4 of the said Act was published in official gazette on 07/01/1993. Land Acquisition Officer passed draft award on 13/03/1996. The Collector vide it's letter dated 30/09/1996 approved rates for the land under acquisition. Thereafter, without mentioning any date final award is passed and E-statement is prepared.

5. It is the case of claimant that he received notice dated 24/12/1996 under Section 12(2) of the said Act, on 30/12/1996 and he withdrew the compensation under protest on the same day. He preferred reference before the Collector seeking enhancement of compensation on 27/01/1997. Collector forwarded the reference to Civil Court, which was received by the reference Court on 27/01/1997 and the same is registered as L.A.R. No.01/1998.

6. Respondent No.2 Special Land Acquisition Officer and respondent No.3 acquiring body opposed the reference by filing written statements. After recording evidence reference Court dismissed the reference on the ground of limitation and also on merit. Being aggrieved by the same, present first appeal is filed.

7. Heard learned advocate for appellant / claimant, learned AGP for respondent Nos.1 and 2 - State and learned advocate for respondent No.3 acquiring body. Perused the record and written

notes of arguments filed by claimant.

8. Section 18 of the said Act, provides for limitation for filing of reference. The relevant provision for decision of present matter is quoted herein below;

"18. Reference to Court

(1)

*(2) The application shall state the grounds on which objection to the award is taken:
Provided that every such application shall be made-*

(a) ...

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

9. While dismissing the claim on the ground of limitation, reference Court has taken into consideration the date 13/03/1996 on which draft award was declared. Admittedly, in the present case no date is mentioned on the final award. It is stated in the final award that,

"The Draft Award was prepared and submitted to the Collector, Parbhani, on 21/05/1996 ... Following rates were proposed,

(1) Group No.I Rs.37,500/- P.H.

(2) Group No.II Rs.50,000/- P.H.

The Collector, Parbhani, vide his Letter No.96/मु.स./C/CR dated 30/09/1996 approved the following rates for the land under Acquisition,

1) Group No.I Rs.310/- Per Acre

2) Group No.II Rs.330/- Per Acre

Accordingly the 'E' Statement is prepared and enclosed in the file."

It is thus, clear that on 30/09/1996, the Collector has approved the rates for lands under acquisition. Therefore, the final award could not be of the prior date than 30/09/1996.

10. Claimant has relied on the copy of notice under Section 12(2) dated 24/12/1996, obtained from the office of respondent No.2 Special Land Acquisition Officer, which was served on him on 30/12/1996 and on the same date he has withdrawn the amount of compensation under protest. Copy of this notice was not placed before the reference Court, however, in the reference specific averment is made by claimant that notice dated 24/12/1996 under Section 12(2) of the said Act was served on him on 30/12/1996. In the written statements filed by respondents there is no specific denial of this averment and only a vague statement is made that reference filed by claimant is not within limitation. In this view of the matter and considering the fact that reference Court has relied on the date of draft award for computing period of limitation, contention of claimant that reference made by him to the Collector on 27/01/1997 is well within limitation, deserves to be accepted. Indeed the reference Court has committed error in relying on the date of draft award for counting limitation period. The limitation period will have to be counted from 30/12/1996, on which date claimant has withdrawn amount of compensation under protest.

11. Without assigning any reason, reference Court has denied enhanced compensation to claimant. There is no discussion of evidence led by claimant in support of his claim for enhanced compensation. Since the said finding is unsupported by reasons it cannot be sustained.

12. For the aforesaid reasons, first appeal is allowed. Impugned judgment and award dated 08/12/2011, passed by learned Civil Judge, Senior Division, Gangakhed, District Parbhani, in L.A.R. No.01/1998 is hereby quashed and set aside. L.A.R. No.01/1998 is remanded back to the reference Court, with liberty to the parties to lead additional evidence. The reference shall be decided within a period of six months from the date of first appearance of the parties. Parties are directed to appear before reference Court on 30/09/2024. Formal notice to that effect is dispensed with.

13. The reference Court shall decide the reference on merits on the basis of evidence led before it and shall not be influenced by the observations made in this order.

(NITIN B. SURYAWANSHI, J.)