



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 WRIT PETITION NO. 576 OF 2016

ANIL GOVIND BADADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr. B. N. Patil, Advocate for the petitioner
Mr. N. D. Raje, AGP for the respondent/State

CORAM : R. M. JOSHI, J.
DATE : 5th DECEMBER, 2024

PER COURT :-

1. This petition takes exception to order dated 05/12/2015 passed below Exhibit 20 in L.A.R. No. 163/2009, whereby the application filed by the claimant for re-measurement / joint measurement of the land came to be rejected.

2. The petitioner is the original claimant owner of the land bearing gut no. 125 to the extent of 1 H 96 R from village Kasar Jawala, Taluka and District Latur. It is his case that land admeasuring 1 H 75 R was acquired for percolation tank however the area is shown less by 67R. He, therefore, raised specific objection before the authorities. In view of Section 18 of the Land Acquisition Act (for short 'the Act'), a reference came to be made before the reference Court for determination of the said dispute. In spite of the same, learned Reference Court

rejected the application for re-measurement / joint measurement solely on the ground that the measurement would further delay disposal of the proceeding.

3. Learned counsel for the petitioner/claimant submits that Section 18 of the Act provides that an objection with regard to the measurement of land can be taken up. In such circumstances, it is for the Collector to refer the said dispute before the Competent Court. Herein this case a reference is made with regard to the objection to the measurement of the land. According to him, in such circumstances, the Court is not justified in refusing request for joint measurement or re-measurement of the subject land.

4. Learned AGP opposed the petition on the ground that the application is filed belatedly, so also in view of the fact that Land Acquisition Reference was pending from 2009, the learned Trial Court was justified in rejecting the application.

5. There cannot be any dispute about the fact that the reference was made to the Court for determination of the objection towards the measurement. Once such objection is raised and is referred to the Reference Court, the Reference Court is bound to determine the same. It is settled law that the Land Acquisition Reference can not be decided on

the basis of the evidence collected by the S.L.A.O. In such circumstances, an opportunity ought to have been given to the claimant to seek joint measurement or re-measurement of the said land.

6. A statement is made across the bar by the learned counsel for the petitioner, on instructions, that the petitioner would bear expenses of the said measurement. He further undertakes to deposit the measurement fees within a period of a month. In view of the issue involved before the Reference Court, the joint measurement or re-measurement of the land would be essential. Merely because appointment of Court Commissioner for this purpose would takes some time for disposal of the proceeding it cannot become a ground for rejection of the application. Hence, the order

ORDER

(i) Application (Exhibit 20) stands allowed. The impugned order is set aside.

(ii) The Trial Court is directed to pass order of appointment of Competent Authority for carrying out the joint measurement of the subject land.

(iii) This order be passed on the next date of hearing before the Reference Court.

(iv) The petitioner/claimant to pay requisite fee within a period of a month from the appointment of the concern authority.

(R. M. JOSHI, J.)

ssp