



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 2405 of 2018

Motilal @ Lala S/o Ramchandra Hande and another

Versus

Shantabai W/o Gajananrao Fand and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri M.R.Joharapurkar, Advocate for the petitioners.

Shri Mohan Turankar, Advocate for the respondent nos.
1 to 4.

Shri K.S.Motwani, Advocate for the respondent nos. 5,
6, 7, 8, 10, 11, 12

CORAM : ANIL S. KILOR, J.

DATED : 10th JANUARY, 2024.

Heard.

2. The application for joining as a party by the respondent nos. 1 to 4, came to be allowed vide order dated 29th September, 2017 passed by the learned 15th Joint Civil Judge, Senior Division, Nagpur in LAC No. 349 of 2014, is under challenge in this writ petition.

3. The short point involved in the present petition is that, though the objection was raised by the petitioners to the tenability of the application under Order I Rule 8-A of the Civil Procedure Code in a Land Acquisition Case, the learned trial Court has not dealt

with it and in that view of the matter whether the order is perverse and without reasons ?

4. The answer to the said question is obviously in affirmative because it is apparent on the face of the record that in a reply to the application filed under Order I Rule 8-A of the Code of Civil Procedure, the petitioners have raised the objection to the tenability of the same and without deciding the same, the learned Reference Court has passed the following order.

“Perused the application and say filed on it, perused the documents at Exh-15, so decide the case on merit application is allowed.”

5. The above referred order is without reasons and it is also evident that the objection has not been dealt with and decided by the reference Court.

6. In that view of the matter, the only option left to this Court to remit the matter back to the reference Court to decide the application afresh. Accordingly, I pass the following order.

- i. The writ petition is partly allowed.
- ii. The order dated 29th September, 2017 passed by the 15th Joint Civil Judge, Senior Division, Nagpur in L.A.C. No. 399 of 2014 is hereby quashed and set aside.

- iii. The application Exhibit 10 under Order I Rule 8-A of the Code of Civil Procedure is remitted back to the learned Reference Court to decide the same afresh after hearing both the parties and after considering the preliminary objection to the tenability of the application.
- iv. The learned Reference Court shall decide the application within one month from the next fixed date.
- v. Further the learned Reference Court is directed to expedite the reference.

[ANIL S. KILOR, J.]