



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

942 WRIT PETITION NO. 4321 OF 2020

GOVIND RAMRAO PATIL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioner : Mr. M. L. Dharashive.
AGP for Respondent-State: Mrs. A. S. Mantri
...

CORAM : MANJUSHA DESHPANDE, J.

Dated : January 28, 2025

PER COURT :-

1. Learned Advocate for the petitioner is challenging the order passed by the 3rd Jt. Civil Judge Senior Division, Osmanabad dated 27.11.2024 below Exh.1 in L.A.R.No. 1347/2002.
2. The Advocate for the petitioner has drawn my attention to the impugned order wherein the reference which has been filed by the petitioner under Section 18 of the Land Acquisition Act for enhancement of compensation has been sent back to the Land Acquisition Officer, Osmanabad.
3. The reason given by the Joint Civil Judge Senior Division, Osmanabad is that the matter is pending from more than 10 years and the record reveals that it is pending for hearing, but due to absence of claimant, the matter could not be proceeded. The claimant has failed

to adduce evidence in spite of sufficient opportunity given to him. On the date on which the matter was listed, the claimant and his Advocate were absent. In view of the absence of the claimant, Reference Court has proceeded to hold that, there is no reason for it to enhance the amount as the compensation awarded by the Land Acquisition Officer is proper and adequate and reflects true market price of the acquired land.

4. Learned AGP submits that since the petitioner has not caused appearance consistently and since the matter was pending since long, the Joint Civil Judge Senior Division was constrained to pass the order.

5. Learned Advocate for the petitioner has placed reliance on the order passed by this Court in group of Writ Petitions bearing No. 2698 of 2021 and connected matters dated 10th February, 2021 (Coram : V. K. Jadhav, J.). In the said group of Writ Petitions, this Court, in similar situation, has quashed and set aside the order passed by the Reference Court. In the said order, this Court has placed reliance on the judgment in the case of ***“Khazan Singh V/s Union of India” 2002 (2) SCC 242***, wherein it has been held that the reference has to be decided by the Civil Court on the basis of material before it on merits and have to record findings on the merits of the matter. Reliance is also placed on various judgments and orders wherein

similar view has been taken and orders disposing of reference on the ground of failure to adduce evidence by the parties, have been set aside.

6. In the present case also, the order passed by the Joint Civil Judge, Senior Division, Osmanabad is not passed on merits of the matter but has been passed since the petitioner had failed to adduce evidence. In fact, it is specifically recorded by the Reference Court that in order to substantiate the claim, the applicant has not adduced either oral or documentary evidence in support of his claim. Further referring negligence on the part of the petitioner and taking serious view of the matter, it is held that compensation granted by the Land Acquisition Officer is sufficient and the Reference has been disposed of.

7. In view of the settled legal position, which has been laid down by various judicial pronouncements of this Court as well as Supreme Court, the impugned order passed by the Reference Court deserves to be quashed and set aside.

8. In the result, order dated 27.11.2024 passed by the 3rd Jt. Civil Judge, Senior Division, Osmanabad below Exh.1 in L.A.R. No.1347 of 2002 is quashed and set aside and the L.A.R. No.1347 of 2002 is restored to its original file. The parties are directed to appear

before the Reference Court on 17.02.2025. The Reference Court shall dispose of the Land Acquisition Reference, after affording opportunity to adduce evidence to the parties, as expeditiously as possible, preferably within a period of 8 months from the 17.02.2025. Writ Petition is disposed of in above terms.

(MANJUSHA DESHPANDE, J.)