



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

FIRST APPEAL NO. 113 OF 2021

Arun S/o Chainsing Chavhan
Age 49 years, Occ. Agri,
R/o Hanumantkheda, Tal. Soygaon,
District Aurangabad

....Appellant

VERSUS

1. The State of Maharashtra,
Through Sub-Divisional Officer,
[Land Acquisition], Sillod,
Tal. Sillod, Dist. Aurangabad

2. The Executive Engineer,
Minor Irrigation [Local Sector],
Gajanan Maharaj Mandir Road,
Aurangabad, Dist. Aurangabad

.....Respondents

.....
Mr. S. B. Solanke, Advocate for the Appellant
Mr. R. B. Dhaware, AGP for the Respondents - State
.....

CORAM : NEERAJ P. DHOTE, J.
DATE : 04/04/2025

FINAL ORDER :

1. This is an Appeal filed under Section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as the 'L.A Act'] against the Judgment and Order dated 01/02/2020, passed by the learned 10th Joint Civil Judge, Senior Division, Aurangabad, in Land Acquisition Reference [LAR] No.47/2017, dismissing the Land Reference.

2. The facts giving rise to the present Appeal are as under :

[I] The Appellant's land ad-measuring 1 Hectare 11 R. from Gat No.128, situated in village Hanumantkheda, Taluka Soygaon, District Aurangabad was acquired for Percolation Tank No.4. The necessary

notifications were issued and final Award came to be passed on 09/11/2006 granting compensation @ of Rs.750/- per R. Being not satisfied with the compensation awarded by the Special Land Acquisition Officer [hereinafter referred to as the 'SLAO'], the Appellant filed Reference Application under Section 18 of the L.A. Act for enhanced compensation. The said Application was made over to the learned Reference Court. The Reference was contested by the Respondents by filing written statement at Exhibit – 7. After framing the necessary issues at Exhibit – 8, the evidence was led by the Appellant and certain documents were brought on record by the Appellant. After hearing both the sides and appreciating the evidence available on record, the impugned Judgment and Order came to be passed by the Reference Court.

3. It is submitted by the learned Advocate for the Appellant that, the learned Reference Court passed the impugned Judgment and Order without considering the evidence available on record and, therefore prayed to Remand the Land Reference to the learned Reference Court for fresh decision after considering the evidence available on record and hearing the parties.

4. It is submitted by the learned A.G.P for the Respondents – State that, the learned Reference Court considered the material available on record and if this Court comes to the conclusion that, the learned Reference Court did not consider the entire material on record, appropriate orders for Remand be passed.

5. Perusal of the Appeal Memo shows that, specific ground of non consideration of the evidence on record is raised. The record shows that, a pursis at Exhibit – 16 was filed by the Claimant stating that, in L.A.R No.49/2017, Swarupchand V/s State, filed 12[2] Panchnama,

certified copy, 7/12 extract, sale deed and the same may be read in evidence and exhibited. There is an Application at Exhibit – 22 for permission to produce the document, which shows that, the same was filed by the Claimant stating that, the Reference Court had passed the Judgment in respect of the lands of other Farmers, which were acquired for the Percolation Tank and prayed that, the documents produced may be accepted and read in evidence.

6. The learned Advocate for the Appellant adverted the attention of this Court to the impugned Judgment. Perusal of the same do not show that, the documents, which were placed on record by the Appellant pursuant to the said Purshis, were considered. This shows that, the impugned Judgment and Order was passed without considering the entire material brought on record by the Appellant. Under such facts and circumstances of the case, the prayer for Remand is reasonable. No prejudice would cause to any party if the matter is Remanded back to the learned Reference Court for deciding afresh by considering the evidence already available on record after hearing both the sides. Hence, the following order is passed :

ORDER

- [I] The Impugned Judgment and Order is quashed and set aside.
- [II] The Land Acquisition Reference No. 47/2017 is restored on the file of 10th Joint Civil Judge, Senior Division, Aurangabad for reconsideration and fresh decision after considering the entire material on record and hearing both the sides.
- [III] The parties shall appear before the learned Reference Court on 09/06/2025.

- [IV] The learned Reference Court shall decide the Reference within reasonable time.
- [V] The Record and Proceedings be sent back immediately to the learned Reference Court.
- [VI] Appeal stands disposed off accordingly.

[NEERAJ P. DHOTE, J.]

Sameer/April-2025