IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Civil Revision Application No. 83 Of 2025

Ashok Gangadharrao Godhamgaonkar
Age : 85 years, Occupation-Advocate
R/o- Rajganga, Plot No.4, N-4, G Sector,
CIDCO, Chhatrapati Sambhajinagar. **.. Applicant**

Versus

1. The State of Maharashtra,
   Through Secretary, Department of Revenue,
   Maharashtra State, Mumbai 32.

2. Taxing Officer,
   High Court of Judicature of Bombay,
   Bench at Aurangabad. **.. Respondents**

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* Advocate for the Applicant :
  Mr. Milind Madhukar Patil alongwith
  Mr. P.G. Godhamgaonkar.

* Advocate for Respondent No.2 :
  Mr. C. K. Shinde.

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CORAM : SHAILESH P. BRAHME, J.
DATE : 17th JUNE 2025

<u>FINAL ORDER</u> :

1. This Revision is directed against order dated 10.03.2025 passed by the Taxing Officer holding that the Applicant is liable to pay deficit Court fees of Rs.12,250/- as per the office objection.

2. Applicant is the original Claimant whose property was acquired by the Respondent No.1. Against that award was passed. A reference was made bearing L.A.R. No.13/1998. It was rejected on 11.09.2023 by the Reference Court which is assailed in the First Appeal. Applicant has paid Court fees of Rs. 2650/- over the compensation of Rs.2,98,433/- which is objected by the office being deficit and against Section 7(1) of the Maharashtra Court Fees Act.

3. Mr. Milind M. Patil learned Counsel for the Applicant submits that finding of the Taxing Officer that claim was restricted to Rs.2,98,433/- is patently illegal. It is contended that Taxing Officer has not taken account explanation to Section 7(1) of the Act. It is further contended that reliance placed on the judgment of Govind Shamrao Bansode Vs. State of Maharashtra is misconceived. It is perversity to hold that the Applicant is liable to pay Court fees of Rs.49000/-.

4. Learned Counsel for the Applicant places reliance on the following judgments :

(a) Jaykisan Pannalal Malpani Vs. Special Land Acquisition Officer, 2004 BOMCR SUPP 1 401.

(b) State of Maharashtra Vs. Mishrilal Tarachand Lodha and Others, 1964 AIR SC 457.

(c) J. Pattammal Vs. The Collector of Madras and Another 1972 AIR MAD 158.

(d) Moulvi Abun Naser Khuthubuddin Syed Shah Mohammed Rakher Khadiri Vs. The Special Tahsildar for Land Acquisition (N.H Scheme), Sathuvachari, 1986 AIR MAD 229.

5. Per contra, learned Counsel Mr. C.K. Shinde representing the Taxing Officer would support the impugned order. It is submitted that entire claim of the Applicant including the market value and consequential statutory benefits will have to be taken into account for determining the Court fees. Considering the claim of Rs.12,52,617.17/-, the Court fees has been determined.

6. Most of the facts are undisputed. In L.A.R. No.13/1998, Applicant claimed Rs.3,45,452.50/- towards market value of the constructed portion and the open space. His further claim is stated in paragraph no.8 of the memo of reference annexed to the petition. Claim under head 'C to F' are towards interest and solatium, In-aggregate claim is to the tune of Rs.12,52,617.17/-.

7. There is nothing on record to show that Applicant has restricted the claim to any amount. The reliance placed by the Taxing Officer on the judgment in the matter of Govind Shamrao Bansode (supra) is incorrect. Facts of that case are distinguishable. In that case, the Claimant had restricted the claim to Rs.25000/- just for payment of Court fees which was not approved by coordinate bench.

8. In the present matter, the issue is as to whether Applicant is liable to pay Court fees for compensation towards market value of the subject matter which comes to Rs.3,45,452/- or to aggregate claim inclusive of interest and solatium which comes to Rs.12,52,617.17/-. Taxing Officer did not consider explanation appended to Section 7(1) which is as follows :

> "Explanation - For the purpose of this sub-section, "amount" means the

amount in dispute and it shall not include the amount of statutory benefits."

9. In the present case, interest and the solatium which is covered by head 'C to F' of paragraph no.8 of the reference memo are statutory benefits of Land Acquisition Act which cannot be included for calculating the Court fees. Hence objection raised by the office and upheld by the Taxing Officer following calling upon the Applicant to pay deficit Court fees is perverse and unsustainable.

10. Applicant has rightly referred to judgment of Division Bench in the matter of Madras High Court in the matter of Moulvi Abun Naser Khuthubuddin Syed Shah Mohammed Rakher Khadiri (supra) to buttress the submission that solatium under Section 32(2) of Land Acquisition Act cannot be part of market value of the property acquired, but it is statutory obligation and reminder to the Court. Solatium cannot be considered for the payment of Court fees.

11. For the reasons stated above, Civil Revision Application is allowed, thereby quashing order dated 10.03.2025.

12. The Court fees paid by the Applicant is adequate.

SHAILESH P. BRAHME
JUDGE

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