

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.130 OF 2024

Allen D'Souza and ors. : Appellants

Versus

Dy Collector (Land Acquisition) & ors. : Respondents

Mr. Yazad Udwadia a/w Bijal Gandhi, Rohit Tiwari and Mr.
Sanjay Maji i/by DM Legal Associates for the Appellants.

Ms. Uma Palsule-desai, AGP for the Respondent – State.

Ms.Sayali Apte i/by Mr. Sunil Khandagale for Respondent
No.4 - MGCM.

CORAM : M.S. Sonak &
Jitendra Jain, JJ.

DATED : 11 JULY 2025

PC:-

1. Heard learned counsel for the parties.
2. The challenge in this Appeal is to the order dated 27 September 2023 by which the learned Single Judge has merely allowed the State to adduce evidence by filing affidavit of its Deputy Collector, the Special Land Acquisition Officer.

3. Mr. Udwadia, the learned counsel for the Appellants, submits that the References in question are under Sections 18 and 30 of the Land Acquisition Act, 1894. He submits that in such References, the State has no role to play on issues of *inter se* title or the title of the Applicants. In such circumstances, he submits that there was no question of allowing the State or its Deputy Collector to file any affidavit and adduce evidence.

4. Ms. Palsule-desai, the learned AGP, submits that the issue of whether the Appellants indeed have title to the acquired property is relevant in the context of determining the precise compensation that would be payable, if at all, to the Appellants.

5. Besides, she submits that such evidence would also assist the Reference Court even in deciding the issue of apportionment of compensation. She submits that apportionment does not necessarily mean payment of compensation between parties, both of whom may not have the title to the acquired land.

6. At this stage, we do not propose to decide the rival contentions. Such rival contentions can be left open for the learned Single Judge (Reference Court) to decide after all parties lead their evidence. However, we believe that this is also not a case where this Court should interfere with the impugned order at this stage and shut out the evidence of the State altogether at the threshold. Interest of justice would be

best served if the evidence is permitted to be led, but the objections of the Appellants are left open to be decided by the learned Single Judge (Reference Court) at the stage of final disposal of the Reference itself.

7. Therefore, by leaving open the objections of the Appellants, we dispose of this Appeal without interfering with the impugned order which merely permits the State to lead evidence in the matter.

8. No costs.

9. Mr. Palsule-desai, on instructions, assures the Court that the witness who has now filed affidavit, will offer himself for cross examination on the appointed dates and not seek any undue adjournments so as to delay the Reference proceedings.

(Jitendra Jain, J)

(M.S. Sonak, J)