



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.56 OF 2018

Narayan Chandu Jadhav (Since deceased through LR's Smt. Komnibai Narayan Jadhav, aged about 65 years, Occ. Cultivator, r/o Bhoju Naik Nagar, Pusad, Dist. Yavatmal, through her son power of attorney Uttam Narayan Jadhav.

... APPELLANT

VERSUS

1. Executive Engineer, Minor Irrigation Division, Pusad, District Yavatmal.
2. The State of Maharashtra, through the Collector, Yavatmal.
3. Special Land Acquisition Officer, Lower Pus Project, Pusad, Tq. Pusad, District Yavatmal.

... RESPONDENTS

Shri K.S. Narwade, Advocate a/w Shri Vishwa Gadbaile, Advocate for the appellant.

Shri H.D. Futane, AGP for the State.

Shri A.M. Kukday, Advocate for respondent no.1.

CORAM : PRAVIN S. PATIL, J.

DATE : 03.11.2025.

ORAL JUDGMENT :

1. Heard the learned Counsel appearing for the parties.

2. By this appeal, the challenge is to the judgment and order dated 02.01.2014 passed by the Reference Court dismissing the petition on the ground of absence of the appellant to attend the proceedings.

3. It is undisputed fact in the present matter that, the House no.31 having total area 140.25 sq. mtr was acquired by the respondents for Amdapur Minor Irrigation Project in the year 1999. In the said proceeding, the appellant was awarded the compensation of Rs.43,222/-. The appellant being dissatisfied with the compensation amount, preferred the reference proceeding before the Civil Judge Senior Division, Pusad bearing LAC No.163/2005.

4. In the said proceeding, it is seen from the record that, the appellant failed to place any documentary as well as oral evidence on record to substantiate the enhancement of compensation. Therefore the learned Reference Court by considering the fact that appellant is not interested to prosecute the proceeding and nothing placed on the record, has rejected the reference proceeding.

5. The appellant being aggrieved by the said judgment approach before this Court and thereby made a submission that the being a widow of Narayan and not aware about the legal consequences, could not attend the proceedings before the Reference Court and therefore the indulgence of this Court is necessary in the matter.

6. Learned Counsel appearing for the respondents has strongly opposed the application. According to him, sufficient opportunity was granted to the appellant by the Reference Court, however appellant failed to prosecute her cause before the Reference Court, and therefore, the findings recorded by the Reference Court cannot be faulted with and hence present appeal deserves to be dismissed.

7. After hearing both the party and gone through the record, it is admitted fact that appellant was residing along with the family at Bhojunaik Tanda (Kurli) Taluka Umarkhed, District Yavatmal. The residential house was bearing House No.31 having total area 140.25 sq. mtr. The said house was acquired for the Amdapur Minor Irrigation Project by the respondent acquiring body. The compensation awarded by the Special Land Acquisition Officer was Rs.43,222/-. The claim made by the appellant before the Reference Court was Rs.205890/-.

8. It is clear that there is much difference of the amount awarded by the Land Acquisition Officer and the claim made by the appellant. The findings of the Reference Court demonstrates the fact that the learned Reference Court did not awarded the enhancement of compensation for the reason that appellant failed to place on the record any documentary evidence more particularly, the judgment of the Reference Court wherein enhancement has been granted and any other

relevant documents.

9. It is well settled position of law that land acquisition proceedings is a beneficial legislation and the person, whose land is acquired is required to be granted just and fair compensation. It is generally happens that the villagers, who are uneducated and unaware about the legal consequences of the proceeding did not prosecute the proceeding. However, for this reason such persons cannot be deprived from their legitimate claim in the matter.

10. Learned Counsel for the appellant to support his submission has relied upon the judgment of Hon'ble Supreme Court in the case of ***Ramanlal Deochand Shah vs. State of Maharashtra and anr. (2013) 14 SCC 50***, wherein somewhat identical factual position was under consideration. In the said matter, Hon'ble Supreme Court in paragraph 16 has observed as under :

“16. The failure or the omission to lead evidence to prove the claim appears in the above context to be a case of some kind of misconception about the legal requirement as to evidence needed to prove cases of enhancement of compensation. We do not in that view see any reason to deny another opportunity to the landowners to prove their cases by adducing evidence in support of their claim for enhancement. Since, however, this opportunity is being granted ex debito justitiae, we deem it fit to direct that if the Reference Court eventually comes to the conclusion that a higher amount was due and payable to the appellant land owners, such higher amount including

solatium due thereon would not earn interest for the period between the date of the judgment of the Reference Court and the date of this order. These appeals are with that direction allowed, the judgments and orders impugned Ramanlal Devchand Shah v. State of Maharashtra, First Appeal No.179 of 1992, order dated 14-6-2011 (Bom) and State of Maharashtra v. Kantilal Manikchand Shah, (2011) 3 Bom CR 709, in the same modified to the extent that while the enhancement order by the Reference Court shall stand set aside, the matters shall stand remanded to the Reference Court for a fresh disposal in accordance with law after giving to the landowners opportunity to lead evidence in support of their claims for higher compensation. No costs.”

11. In the light of about factual position one thing is clear that it is the appellant, who has filed the reference proceedings is expected to prosecute proceeding diligently. The findings of the learned Reference Court clearly demonstrates the fact that, it is the appellant, who was at fault to not attend the proceedings and failed to file appropriate documents before the Court. Therefore, according to me, after remanding the matter back, in case the learned Reference Court find that the appellant is entitled for enhancement of compensation, the appellant will not be entitled for the interest on enhanced amount from the date order of Reference Court dated 02.01.2014 till the final fresh decision of the Reference Court.

12. In view of the above, I proceed to pass the following order :

(a) The appeal is partly allowed.

- (b) The judgment and order passed by the Reference Court 02.01.2014 in LAC No.163/2005 is hereby quash and set aside.
- (c) The matter is remanded back to the Civil Judge Senior Division, Pusad, District Yavatmal bearing LAC No.163/2005 to decide it a fresh on its own merits.
- (d) It is made clear that appellant will not be entitled to claim interest on the enhanced amount, in case the Reference Court while deciding the reference after remand, is of the opinion that appellant is entitled for the enhanced compensation from the period 02.01.2014 till the fresh decision of the Reference proceedings on its own merit.

13. The Appeal stands disposed of accordingly. No order as to costs.

(PRAVIN S. PATIL, J.)

Trupti