



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1148 OF 2024

Sudhir Shadilal Mehra

Age : 78 Years, Occu : Senior Citizen,

R/o. Flat No.4, Jolly Maker-2,

5th Floor, Cuff Parade, Colaba,

Mumbai – 05.

...PETITIONER

VERSUS

1. The State of Maharashtra
Through Collector, Aurangabad,
Tq. & Dist. Aurangabad.

2. City and Industrial Development
Corporation,
Through its Chief Officer,
CIDCO Office, N-5, Aurangabad,
Tq. & Dist. Aurangabad

...RESPONDENTS

- Mr. D. A. Mane h/f Mr. Pingale D. M., Advocate for the Petitioner.
- Mr. A. A. A. Khan, AGP for Respondent – State.
- Mr. Deshmukh Shambhuraje V, Advocate for Respondent No.2.

CORAM : AJIT B. KADETHANKAR, J.

DATE : MARCH 10, 2026

JUDGMENT :

1. Head. **Rule.** Rule made returnable forthwith. Heard for final disposal with the consent of learned counsel for the parties.

2. The petitioner was the owner and possessor of the land admeasuring 6 H 25 R situated in Gut No.40 of village Golwadi, Taluka and District Chhatrapati Sambhajinagar. Out of the said land, a

portion admeasuring 1 H 61 R land was acquired by respondent No.2 – CIDCO. After following the due process, final award came to be passed on 27th October 2005 to the tune of ₹ 3,38,800/-. Feeling aggrieved by the inadequate award, the petitioner preferred Land Acquisition Reference No.372 of 2006 in the Court of 6th Joint Civil Judge, Senior Division at Aurangabad. Notices were issued to the respective parties and the parties were represented by the respective counsel.

3. During the trial, the record reveals that the petitioner filed his affidavit of examination-in-chief vide Exhibit 31. He relied on a copy of the award dated 20th October 2005, copies of sale deeds dated 09th February 2001 and 15th November 1996, and a copy of the notice under Section 12(2) of the Land Acquisition Act. The record further reveals that thereafter the petitioner failed to present himself for cross-examination. The learned Trial Court, vide an order, discarded the evidence tendered by the petitioner. Thereafter, even the defendant also did not adduce any evidence. As such, vide the impugned order dated 07th July 2023, the learned 6th Joint Civil Judge (Senior Division), Aurangabad pleased to dismiss the reference.

4. Mr. Mane, learned counsel for the petitioner would submit that the petitioner lodged the reference case with an object to receive

not only enhanced compensation but at least adequate compensation to which he has a legitimate right to claim. He would submit that accordingly the reference was filed and even examination-in-chief was also tendered. However, due to miscommunication and for want of proper advice, the petitioner could not present himself for the further trial process, and as such the evidence tendered by the petitioner came to be discarded by the learned Reference Court.

5. He would submit that it is not disputed that the petitioner's land has been acquired by respondent No.2 – CIDCO. He would submit that the petitioner, being must get an opportunity to lead appropriate evidence so as to prove his case for adequate compensation. Thus Mr. Mane, learned counsel for the petitioner would pray that the petition be allowed and the matter be relegated back to the learned Reference Court to decide the reference case of the petitioner on merit. He makes a candid statement before this Court that the petitioner shall not seek a single adjournment in the matter and would meticulously prosecute the reference proceedings without protracting the same for any reason, particularly in order to get more interest. Mr. Mane, learned counsel would place reliance on an order passed by this Court on 04th April 2024 passed in Writ Petition

No.9164 of 2023 also order dated 05th December 2022, passed in Writ Petition No.12089 of 2022

6. Mr. Deshmukh, learned counsel for respondent No.2 – CIDCO, relies upon the findings rendered by the Reference Court in paragraph Nos.13 and 14. He would submit that the record speaks itself that the petitioner was not diligent in prosecuting his right and the CIDCO should not suffer the delay and latches caused by the petitioner it his own. Mr. Deshmukh, The learned counsel respondent No.2 – CIDCO would further submit that it is not the case that the learned Reference Court has committed any illegality in passing the impugned order, nor any delay could be attributed to respondent No.2 – CIDCO.

7. With the able assistance of the learned counsel, I have gone through the papers and the file. The peculiar facts of the case is that the land of the petitioner has been acquired by respondent No.2 under compulsory acquisition. The respondent authority does not dispute the same, and the award has also been passed by following the due process of law, and the certain amount to the tune of ₹ 3,38,800/- has been awarded. The petitioner has every legitimate right to make out a case for enhancement in the compensation.

8. The petitioner had rightly preferred reference proceedings before the competent Court; however, on account of failure on the petitioner to present himself for cross-examination pursuant to the examination-in-chief that was tendered by the petitioner during the trial, the entire proceedings has been turned down by the learned Civil Court. I do agree with the submissions advanced by Mr. Mane, learned counsel for the petitioner that if the petitioner failed to present himself for cross-examination pursuant to his examination-in-chief, the learned Reference Court ought not to have dealt with the case on merits. In the circumstances, the proceedings could have been terminated otherwise on merits.

9. May it be, in the circumstances, I deem it appropriate to allow the writ petition with directions to the parties as also the learned Reference Court. In view of this, I pass following order.

ORDER

- A) The writ petition stands allowed.
- B) The impugned order dated 07th July 2023 passed by the learned 6th Joint Civil Judge, Senior Division, Aurangabad in Land Acquisition Reference No.372 of 2006 is quashed and set aside.

- C) The Land Acquisition Reference No.229 of 2006 stands restored to its original position.
 - D) The parties shall appear before the learned Reference Court on 17th March 2026.
 - E) The petitioner shall henceforth prosecute the proceedings before the learned Reference Court diligently and without seeking a single adjournment.
 - F) The learned Reference Court is requested to conclude the reference proceedings within a period of 12 months thereafter.
 - G) The petitioner shall not be entitled for any interest with effect from 19th December 2022 till 17th March 2026.
 - H) Writ petition stand disposed of accordingly.
10. Rule is made absolute in above term.

(AJIT B. KADETHANKAR, J.)