
(2002) 03 BOM CK 0062

In the Bombay High Court

Case No : Civil Revision Application No. 146 of 2002

Parbatabai Thakre and Others

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 05-03-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 18(1), 18(3)

Citation : (2002) 4 ALLMR 510 : (2002) 4 BomCR 448 : (2002) 3 MhLj 806

Hon'ble Judges : S.G. Mahajan, J

Bench : Single Bench

Advocate : P.S. Tembhre, for the Appellant; K.S. Dhote, A.G.P., for the Respondent

Final Decision : Allowed

Judgement

S.G. Mahajan, J.—Rule, returnable forthwith by consent of parties.

2. The order impugned in this revision was passed by Collector, Gondia, on 30/31-10-2001, whereby he refused to make a reference to the Civil Court u/s 18(1) of the Land Acquisition Act and rejected the application of the present revision-petitioners for making a reference in that behalf.

3. The land owned by the present revision-petitioners bearing Gat No. 196/1 admeasuring 0.41 hectares was acquired by the State and an award was passed on 12-3-2001. Being dissatisfied by the inadequate compensation awarded by the Land Acquisition Officer, the revision-petitioners filed a reference application u/s 18 of the Land Acquisition Act for enhancement of compensation, before the Collector, Gondia. The revision-petitioners challenged the award on various grounds. The Collector, Gondia, rejected the application and refused to make a reference by the order, which is under challenge in this revision.

4. The grievance of the revision-petitioners is that the reference application moved by them fulfills all the conditions contemplated by the provision of Section 18 of the Land Acquisition Act. However, the Collector, who is present respondent

No. 2, refused to make a reference to the Civil Court on the ground that the revision-petitioners did not join the officers of the administrative department of Mantralaya for which the land is acquired and the other officers of the said department on the regional and district levels as parties who, according to the Collector, are the necessary parties to the reference to be sent to the Civil Court, It is also the further grievance of the revision-petitioners that the Collector rejected the application holding that the award passed by the Land Acquisition Officer was proper and the compensation given was as per the norms laid down by the Government. As per the revision-petitioners, the Collector cannot go into the merits of the case while making the reference.

5. It is not necessary to join the officers of the department of Mantralaya as parties to the reference application. It is also not necessary to join the officers of the concerned department at the regional and district levels as parties. The Collector can sufficiently represent the department concerned and also the State. Moreover, the provision of Section 18 of the Land Acquisition Act does not indicate that this aspect will come within the purview of the jurisdiction of the Collector while dealing with the reference application.

6. While holding that the award passed by the Land Acquisition Officer is appropriate and proper and the compensation given by him is as per the rules or norms laid down by the Government, the Collector has really gone into the merits of the case. The provisions of Section 18 of the Land Acquisition Act nowhere empowers the Collector to go into the merits of the case and decide that the compensation awarded by the Land Acquisition Officer is proper, and on that count refuse to make a reference to the Civil Court. The only requirement is that the Collector should see whether the conditions laid down in Section 18 of the Land Acquisition Act are satisfied or not. The learned counsel for revision-petitioners cited in this connection Mohandevi w/o Sohanlal Jhawar v. Special Land Acquisition Officer (General), Nagpur and Ors., 1993 Mh.L.J, 335. The relevant observations are that while making reference u/s 18 of the Land Acquisition Act, the Collector has to be satisfied about the existence of conditions precedent laid down in Section 18 of the Land Acquisition Act and the Collector acting u/s 18 is not an adjudicating authority to pronounce finally upon the merits of the reference.

7. In the present case, the Collector has not only exceeded his jurisdiction, but also he has encroached upon the jurisdiction of the Civil Court. The finding of the Collector that the award passed by the Land Acquisition Officer is appropriate and proper and as per the norms laid down by the Government and no injustice is caused to the revision-petitioners, is absolutely unwarranted.

8. In the above view, the matter will have to be remanded back to the Collector with a direction to deal with the application of the revision-petitioners as per the relevant provisions.

9. The revision is allowed. The order passed by Collector, Gondia, bearing No.

Jikago/LA/Aka/Kavee-1800/2001, dated 30/31-10-2001, rejecting the reference application dated 20-8-2001, filed by the revision-petitioners for making a reference to the Civil Court, is set aside and the matter is remanded to Collector, Gondia, with a direction to deal with the reference application as per the provisions u/s 18 of the Land Acquisition Act. The respondent-State shall pay the costs of Rs. 500/-. (Rs. Five hundred) to the revision-petitioners.

10 Rule is made absolute in above terms.