

(2011) 09 BOM CK 0111

In the Bombay High Court

Case No : First Appeal No's. 168, 169, 170 and 171 of 2006

Shri Ramesh Sukdow Bhandari and Others

APPELLANT

Vs

Gangadhar Morto Naik Gaonkar (since deceased),
represented by legal heirs (Smt. Nayana G.N. Gaunkar (Party
No. 5) and Others) and Others

RESPONDENT

Date of Decision : 23-09-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 30, 4

Citation : (2011) 09 BOM CK 0111

Hon'ble Judges : R.P. Sondurbaldota, J

Bench : Single Bench

Advocate : A. Kansar, for the Appellant; Sudin Usgaonkar, for Respondent Nos. 2, 3(a) to 3(f), for the Respondent

Judgement

R.P. Sondurbaldota, J.—These four appeals arise out of the references made u/s 30 of the Land Acquisition Act, 1894. The references were disposed of by judgment and Award dated 15-2-2006 passed separately in each reference. The Appellants are party Nos. 6 to 12 and the Respondents are party Nos. 1 to 5 in the references before the District Court.

2. Heard Learned Counsel for the parties.

3. By the notification dated 30-12-1996 issued u/s 4 of the Land Acquisition Act, land at survey Nos. 165, 176 and 177 of Canacona Taluka was acquired by the Government for implementation of Housing Scheme at Canacona. Part of the land acquired was area of 7,600 sq. meters acquired from survey No. 176/2, 25,700 sq. meters from survey No. 176/1, an area of 38,000 sq. meters of survey No. 177/1, and an area of 8,800 sq. meters of survey Nos. 176/3 and 176/4 of village Canacona. As there was dispute between the parties, the compensation was referred to the District Court u/s 30 of the Land Acquisition Act for its decision in the matter. The Reference Court by its impugned judgment and Award allowed the claims of the Respondents and dismissed the claim of the

Appellants.

4. The claim put up by the Appellants in the written statement was that they are the owners of the properties in question having inherited the same over generations from one Babul Zomon Naik. The Appellants relied upon inscription and description No. 9056 of the property which according to them showed the name of the grandfather of original applicant No. 6. The Respondents disputed that Babul Zomon Naik was the ancestor of the Appellants. According to them, the Appellants belong to Bhandari Community and the said Babul Zomon Naik belonged to Kshatriya Maratha Caste. There is no dispute that the Appellants belong to Bhandari Community and the Respondents belong to Kshatriya Maratha Caste. Besides this, according to the Respondents the property under reference was actually self acquired property of their grandfather having acquired the same under decree in Civil Suit No. 4595 of 1892. According to the Respondents, Babul Zomon Naik had no connection whatsoever with this property. The property described by matriz Nos. 182, 183, 184 and 185 corresponds to the property in question. As against a solitary document of inscription and description bearing No. 9056 produced by the Appellants, there are several documents relied upon and produced by the Respondents. They are copy of inscription and description along with English translation at exhibit C-28 colly, matriz certificate in respect of property bearing matriz No. 182, 183, 184 and 185 at exhibit C-29 colly and copy of the decree in case No. 4595/1892 along with English translation at exhibit C-30 colly. Official Gazette dated 1.5.86 at exhibit C-31 and copy of Form I & XIV of the property bearing survey No. 176/3 and 176/4 of village Canacona amongst others at exhibit C-32 colly and blue prints of the property bearing survey No. 176/1, 177/1, 19/1, 171/1 and 171/2 at exhibit C-33 and C-34 colly.

5. The Reference Court found that the documents produced by the Respondents clearly demonstrate that the property at survey Nos. 19/1, 19/2, 176/1 to 176/16 are inscribed in the name of Morto Giblo Naik father of Dr. Giblo Naik Gaonkar and late Gangadh ar and late Shantaram Naik Gaonkar under inscription at folios 154 V of Book G 9 and that late Morto Gilbo Gaonkar inherited the property from his father late Gilbo Morto Naik Calvaodcar who in turn had acquired the same from Comunidade of Canacona by virtue of a decree in Civil Suit No. 4595 of 1892 passed by the Civil Judge, Senior Division at Quepem. The Respondents have also produced the Official Gazette dated 1-5-1986 which showed that a part of the property admeasuring 5250 sq. meters had been donated by late Shri Giblo Morto Naik Gaonkar and his son late Shri Morto Giblo Naik Gaonkar to Gopal Krishna Devasthan. This evidence has gone unchallenged.

6. The above evidence establishes that the property in question belongs to the Respondents. Therefore, the Reference Court has rightly decided the reference in favour of the Respondents. Consequently, no interference with the impugned Orders is called for. Therefore, the appeals are dismissed. It is clarified at the request of the counsel for the Appellants that the findings herein of title of the Respondents are limited to the lands in question in the four references and do

not extend to the other property which forms subject matter of a suit on title filed by the appellants.