

ORDER BELOW EXH.16 IN L.A.R. NO.69/2018

Read the application of claimant and say filed by respondent no. 1 and 2 on it. No say filed by respondent no. 3 and so application is heard without say of respondent no.3. Heard learned Adv. Shri. Deokate for claimants and learned A.G.P. Shri. Kolpe for respondent no. 1 and 2.

2. This is the application filed by claimants to set aside the order of closing their evidence. The claimants have averred that Mahadeo Thavre had filed separate L.A.R. No. 317/2015 for area of 13H:71R out of total acquired property. The said reference is finally decided by Judgment. The area Adm. 04H:72R out of total acquired area is subject matter of this petition. The claimants had filed application in L.A.R.NO. 317/2015 to implead them as party in it. But the Court has rejected it. After the passing of Judgment in land reference filed by Mahadeo, the claimants had filed objection application for restraining the payment of compensation to Mahadeo in execution petition filed by him. The Court has rejected said application. Thereafter Writ petition is filed before the Hon'ble Bombay High Court bench at Aurangabad. The Hon'ble Bombay High Court bench at Aurangabad has ordered to pay the amount of compensation to Mahadeo. Also the claimants have filed Civil Suit in respect of ancestral joint family property of themselves and Mahadeo. Due to all these proceedings, the claimants could not lead their evidence within time. The claimants have not deliberately delayed in leading evidence. If evidence close order passed against claimants is not set aside then claimants may suffer irreparable loss. So claimants have prayed to grant the application.

3. The respondent no. 1 and 2 have filed their say and strongly objected to the application and prayed to reject it.

4. Considering rival contention of both parties, following points arise for my determination and my findings on it and reasons therefore are as follows.

Sr. No.	Points	Findings.
1	Whether the application deserves to be allowed?	In the affirmative.
2	What order?	As per final order.

REASONS.

As to point no. 1 :-

5. Learned Adv. Shri. Devkate has argued for claimants that the claimants have objected to the land reference filed by Mahadeo as well as execution petition in respect of Award passed in it. He has further argued that the claimants have also filed Writ Petition against Mahadeo in respect of payment of compensation of acquired land awarded in L.A.R. No. 317/2015 and also filed Civil Suit against him for partition of properties. He has further argued that as claimants remained busy in those proceedings, claimants could not lead their evidence in this petition in time and so their evidence is closed by the Court. He has also argued that if said order is not set aside then claimants may suffer irreparable loss. So he has prayed to grant the application.

6. Learned A.G.P. Shri. Kolpe has argued for respondent no. 1 and 2 that the claimants have filed the application only to delay the proceeding of petition. So he has prayed to reject the application.

7. The land reference is filed by the claimants for enhancement of compensation of their acquired land as per section 18 of The Land Acquisition Act, 1894. The claimants are interested parties in the petition some of the claimants are illiterate persons and most of the claimants are senior citizens. It seems that they are involved in several proceedings pending before different courts for different relief. The claimants are rustic villagers and considering the number of proceedings in which they are party, they might not have much time to lead evidence in this petition. The reasons mentioned in the application are satisfactory to set aside evidence closed order passed against claimants. If application is not allowed then claimants may suffer irreparable loss and it may lead to multiplicity of proceedings between the parties. Hence application

deserves to be allowed, in the interest of justice. Hence I answer point no.1 in the affirmative.

As to point no. 2:-

8. So in answer to point no.2, I pass following order.

ORDER

- 1 The application is allowed.
2. The evidence close order passed against claimants below Exh.1 dated 25.1.2022 is set aside and claimants are permitted to lead evidence.
3. Parties to bear their own costs.

Date : 29.03.2022

(S.G. Baokar)
Civil Judge Senior Division,
Paranda

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of Stenographer : Shivshankar Nagnath Bharati
Name of Court : Shri. S.G.Baokar
Civil Court S.D.,Paranda,
Osmanabad.

Order Date : 29.03.2022
Order signed by the
Presiding Officer on : 29.03.2022
Order uploaded on : 29.03.2022