

MHRG190008252023



L. A. R. No. 18/2010
Order below Exh. 35

Through this application, applicant seeking amendment in reference application, vide Order 6 Rule 17 of The Code of Civil Procedure.

02. Perused the application. Say filed by respondents.

03. Heard learned advocate Miss. Priti Jangam for applicant, learned A. P. P. Mr. Yogesh Tendulkar for respondent No. 1 and 2 and learned advocate Miss. Dhanashree Kamat for respondent No. 3.

04. It was argued for applicant that, filing reference under section 18 of L. A. Act, 1894 applicant claimed enhance compensation of his acquired land. Initially he has sought enhance compensation at Rs. 200/- per sq. meter. Now by way of proposed amendment seeking enhance compensation at Rs. 1,400/- per sq. meter. Thus prayed to allow the amendment substituting Rs. 200/- per sq. meter by 1,400/- per sq. meter and consequential averments of calculation of enhance compensation, valuation of claim and court fee stamps thereon. According to learned advocate for applicant proposed amendment is necessary. If not allowed will cause an irreparable

loss to applicant. Proposed amendment will avoid the multiplicity of the petition. Proposed amendment will cause no prejudice to either respondents. Thus prayed to allow the application.

05. On the other hand respondent No. 1 to 3 strongly opposed the application contending it to be belated. It is further submissions that, earlier applicant had sought amendment in like nature and the Court was pleased to allow the same. Now again applicant seeking amendment in the same line, which is not permissible. Besides applicant has not given any reason for proposed amendment. Proposed averments of enhancement of compensation at Rs. 1,400/- per sq. meter is not supported by any evidence. The applicant is not entitled for enhance compensation than claimed in reply to notice under section 9(3)(4) of the L. A. Act. Proposed amendment is vague. It is not in consonance the provision of law. Seeking repeated amendment applicant is trying to protract the proceedings. Thus prayed to reject the application.

06. Given thoughtful consideration to rival submissions. Under the reference application applicants claimed enhance compensation under section 18 of L. A. Act of their acquired land for Kaal Jalvidyut Prakalp. Initially the applicant claimed enhance compensation at Rs. 7/- per sq. meter. By application Exh. 10 applicant had sought the amendment seeking compensation at Rs. 200/- per sq. meter instead Rs. 7/- per sq. meter. By order dated 11/07/2024 court was pleased to allow

the said application. In consonance with the said order applicant carried out the amendment. Thereby claimed enhance compensation at Rs. 200/- per sq. meter. Applicant also filed his affidavit in lieu of examination in chief on 23/03/2023. Reference is lying for cross-examination of applicant by respondents. But applicant filed present application seeking amendment.

07. Perusal of application it transpire that, the applicant has not given any reason as to what constrained him to seek the proposed amendment. As stated earlier applicant had already sought the amendment in like nature, the enhancement at Rs. 200/- per sq. meter instead of Rs. 7/- per sq. meter as claimed initially. Now under the present application applicant by way of proposed amendment is again seeking enhancement claim at Rs. 1,400/- per sq. meter against enhance claim of Rs. 200/- per sq. meter. that too without any reason.

08. Reference application is of year 2010 that is almost 15 years old. Trial has already commenced as the applicant began with his evidence. The applicant absolutely not given any reason in the application which constrained his to seek the proposed amendment. There is no due diligence on the part of applicant. It is well settled that amendment cannot be claimed as matter of right under all the circumstances. The petitioners cannot be permitted to take the respondent by surprise at belated stage by way of amendment in the pleading. If the application is read in its entirety it does not appears bonafied

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one. Considering discussed aspects I am not inclined to allow the application. Resultantly following order.

ORDER

1. Application is rejected.
2. No order as to costs.

Mahad
Date : 11/03/2025

(**P. M. Unhale**)
Civil Judge S. D. Mahad