

LAR No. 36/2014
Order below Exh. 05

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

2. Despite opportunity respondent No. 1 and 2 failed to file say to application. Consequently, application proceeded without say of respondent No. 1 and 2. Respondent No. 3 filed say at Exh. 26.

3. Perused application and say of respondent No. 3. Heard learned advocate Miss. P. P. Jangam for applicant and learned advocate Miss. Dhanshri Kamat for respondent No. 3.

4. It is contention of applicant that, filing reference under section 18 of L. A. Act, 1894 he has claimed enhance compensation. He has pleaded in the reference application that the market value of acquired land at the time of acquisition was Rs. 200/- per sq. meter. But at the time of filing the reference application, he was not financially good to pay the court fees claiming enhance compensation at Rs. 200/- per sq. meter. Thereby, he restrained his enhance claim at Rs. 7/- per sq. meter and paid required to court fees thereon. He had reserved rights to amend the application claiming enhance compensation at just and proper rate. In this circumstances, applicant is claiming amendment in the reference application at places shown in the application, claiming enhance compensation of acquired land at Rs. 200/- per Sq. meter.

According to him, proposed amendment is justified and will not nature of the original claim. Thus, prayed to allow the application.

5. On the other hand, learned advocate for respondent No. 3 opposed the application submitting that, the application is time barred, moved with ill-intention. No just and proper reasons is given in support proposed enhanced claim/rate. Applicant is not entitled claim more compensation against claim made in response to notice under section 9(3) (4) of LA Act. In short prayed to reject the application.

6. Given thoughtful consideration and rival submissions. Under reference application (Exh. 1) applicant claimed enhance compensation under section 18 of the L. A. Act of his acquired land. It is seen for the reference application that, he has pleaded that the market value of acquired land at the time of acquisition was Rs. 200/- per sq. meter. However, due to his poor financial condition he was unable to pay the required court fees for enhance compensation at Rs. 200/- per sq. meter. Thereby he restricted his claim at Rs. 7/- per sq. meter and paid court fees thereon. Reference application further reveals that applicant reserved his rights to amend claim as per the market value. It is seen from the proposed amendment, applicant is not making any new case. Proposed amendment appears to be in-consonance with earlier pleadings.

7. As regard the submissions of learned advocate respondent No. 3 that, application is not supported by any evidence entitling applicant to enhance his claim of compensation. But this argument of respondent No. 3 cannot be acted upon, since the court is not deciding the enhance claim of applicant at this stage. The market value of the acquired land at the time of its acquisition and claim of enhancement can be decided at full fledged trial that too after considering evidence adduced by the parties.

8. Proposed amendment if read in light of reference application (Exh. 1) will not change the nature of original claim. Proposed amendment in no way is prejudicial to either respondents. Since proposed amendment is in-consonance with earlier pleadings, I am inclined to allow the same. Resultantly, following order.

ORDER

1. Application is allowed.
2. Applicant is permitted to carry out the amendment as prayed for and submit to amendment copy, on or before next date.
3. No order as to costs.

Mahad
Date : 11/07/2024

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