

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO. 336 OF 2010
IN
LAND ACQUISITION REFERENCE NO. 17 OF 1984

Bombay Municipal Corpn. of Gr. Bombay .. Applicant
Versus
Mrs.Anju Richar Elmes and Ors. .. Respondents

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- Mr. C.M. Kothari, for Claimants.
 - Smt. Pooja Patil, AGP, for State.
 - Ms. Pooja Yadav i/b Ms. Komal Punjabi for BMC-Acquiring Body.
 - Adv. V. Mirasee i/b Shah and Sanghavi Advocates & Solicitors for Claimant Nos. 3 and 4.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 06, 2024

P.C.:

1. Heard Mr. Kothari, learned Counsel for Claimants, Smt. Patil, learned AGP for State, Ms. Yadav, learned Advocate for BMC-Acquiring Body and Adv. Mirasee appearing for Claimant Nos. 3 to 4.

2. The praecipe dated Nil day of November, 2024 is filed for seeking rectification of calculation error in computing the compensation in L.A.R. No. 17/1984. Admittedly, the said L.A.R. is disposed of long back and statutory Appeal against the Reference Court award is filed and pending before the Division Bench of this Court. The said Appeal has also been directed to be expedited. Praecipe is filed by Claimant No.1 through his Advocate Mr. C.M. Kothari. Praecipe states that, a direction be given to the Mumbai

Municipal Corporation i.e. the Acquiring Body to rectify the mistake in the calculation of compensation paid to the Claimant. It further states that, deficit amount is lying with the acquiring body for a long time and despite request letters and reminders dated 05.12.2009, 14.12.2009 and 14.03.2024 showing the mistake/error in calculation, the said deficit amount is lying unpaid to Claimant No.1 because of a mistake in calculation on the part of the Land Acquisition Officer and the Acquiring Body. Save and except, the aforesaid statements there is nothing else stated in the praecipe. Land Acquisition Reference is admittedly disposed of five years back which is now under further challenge. If any of the Claimants have any grievance, whatsoever, in respect to computation and calculation of the amounts which have been awarded in by/under Reference Court Award which is under challenge or for that matter in the original SLAO's Award which was considered by the Reference Court in L.A.R. No. 17/1984, the said Claimants shall be at liberty to file appropriate Application before the Appellate Court strictly in accordance with law. Filing of such an innocuous praecipe is completely unwarranted and is an erroneous course of action adopted by Claimant No.1 through his Advocate. Submissions made by the learned Advocate have been heard by the Court but they cannot be countenanced. Once the Reference award is passed by the Reference Court, the Reference Court ceases to have any further jurisdiction unless there is any review made before the

Reference Court to correct any error in calculation as stated in the praecipe. In the present matter the reference award is now under challenge before the Appellate Court.

3. In that view of the matter, the request made by the Claimant No.1 through his Advocate in the praecipe cannot be considered and allowed by this Court. The praecipe is rejected keeping all contentions as available to the Claimant No.1 in law.

4. Praecipe is disposed.