

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

FIRST APPEAL NO. 366 OF 2008
WITH
CIVIL APPLICATION NO.2920 OF 2014

V. I. D. C. Yavatmal Vs. Hukumchand Uttamchand Kotecha & Ors.

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

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Shri A. B. Patil Adv for appellant.
Smt. A. Joshi Adv for respondent no.1.
Smt. M. N. Hiwase AGP for respondent no.2.

CORAM : A.S. CHANDURKAR J.

DATED : MAY 06, 2015.

The claimant herein has filed Civil application No.2920 of 2014 for disposal of the appeal on the ground that in respect of another property which was subject matter of acquisition under the same Notification by which the land of the present claimant was acquired, the appellant had amicably settled the matter by granting rate of Rs. 500/- per sq. mt for open plot and Rs.2300/- per sq. mt. for constructed area with statutory benefits. It is stated that First Appeal No. 1335 of 2008 and First Appeal No.1067 of 2008 relate to the property from the same village where the property of the respondent no.1 is situated. It is further stated that there is marginal increase in the amount of compensation from that which was awarded by the Reference Court. Copy of the compromise memo has also been placed on record.

Shri A. B. Patil, learned counsel appearing for the

appellant does not dispute that the properties which were the subject matter of acquisition in First Appeal No. 1335 of 2008 and First Appeal No.1067 of 2008 are situated in the very same village where the property of respondent nos.1 to 3 is situated. Similarly all properties were subject matter of acquisition under the same Notification. It is stated that compensation for the constructed area has been granted in First Appeal No. 1335 of 2008 by enhancing the amount by 25%.

Considering the fact that the appellant which is a statutory body has agreed to grant compensation at the rate of Rs. 500/- sq.mt. for open plot and Rs.2300/- per sq. mt. for constructed area with statutory benefits, compensation on similar lines can be granted to the respondent nos.1 to 3 in the present appeal. In the present case also, the amount granted for the constructed area can be enhanced by granting 25% increase thereon. The respondent nos.1 to 3 who have filed cross objections for enhancement in the amount of compensation are satisfied by said amount of compensation.

Hence in view of the terms of settlement in First Appeal No. 1335 of 2008 and the order passed in First Appeal No.1067 of 2008, this appeal is disposed of on the following terms:

Respondent nos.1 to 3 are held entitled for enhancement of compensation at Rs. 500/- per sq. mt. for each open plot of land. As regards plot No.91, the said respondents would be entitled to an amount of Rs.1000/- per sq. mt. for the constructed area. For plot No.97 they would be entitled for a sum of Rs.1671 per sq. mt. for the constructed area with all statutory benefits.

The appellant has deposited in this Court a sum of Rs.7,40,090/- pursuant to order dated 23/10/2008. The said respondents have withdrawn an amount of Rs.2,46,696/- by furnishing solvent surety. Considering the aforesaid adjudication, the respondent No.5 is directed to calculate the total amount of compensation to which the respondent Nos.1 to 3 would be entitled to. The same be done within period of four weeks from today. After said adjudication, the respondent Nos.1 to 3 would be permitted to withdraw the balance amount that is lying in deposit in this Court. In case the respondent Nos.1 to 3 are found entitled for a higher amount than the amount which is deposited, the appellant shall pay said amount to the respondent Nos.1 to 3 within a period of three months from such adjudication. The said amounts shall be distributed amongst the respondents in terms of observations made in paragraph 10 of the impugned judgment.

The First appeal, Civil Application and Cross objections stand disposed of accordingly. No order as to costs.

JUDGE