

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CAF NO. 1069/2015 IN FIRST APPEAL NO. 988 OF 2014
AND CROSS APPEAL NO. 39 OF 2015

(VIDC thr. its Executive Engineer, Lower Wardha Project Division, Wardha vs. Kusumkar s/o
Gopalrao Shirpurkar & Ors.)

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

Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI &
V.M. DESHPANDE, JJ.
NOVEMBER 30, 2015.

Heard Shri V.T. Deshpande, learned counsel for the applicant – Respondent No. 1 – land owner, Shri Parihar, learned counsel for the appellant – Acquiring Body and Mrs. Rashi Deshpande, learned AGP for respondent Nos. 2 & 3.

Perused the judgment delivered by Reference Court. Sale deeds produced before the trial Court i.e. Exhibits 32, 44 & 47 are of the year 2008. Section 4 notification has been published in the year 1999. The trial Court has, therefore, scaled down the rate and arrived at figure of Rs.8 lakh per Hectare. Respondent No. 1 has, in his Reference application and thereafter in Cross Appeal before this Court demanded rate of Rs.8 lakh per Acre.

Shri V.T. Deshpande, learned counsel has pointed out that the land acquired was irrigated land and the petitioner has been paid compensation for well situated therein. The sale instances are of dry crop land.

These facts are not in dispute.

This Court has on 09.12.2014 granted stay

subject to the appellant depositing 75% of the amount as per orders of Reference Court. Thus, the amount of Rs.1,03,18,593/- has been deposited with the Registry of this Court.

In Civil Application, Respondent No. 1 points out the need to purchase other lands. Shri Deshpande, learned counsel also states that Respondent No. 1 has to construct house also. The exact amount needed for that purpose has not been pointed out. Shri Deshpande, learned counsel states that as the amount is still not released to Respondent No. 1, he is not in a position to enter into any agreement or to make other arrangements.

In this situation, we provisionally permit Respondent No. 1 to withdraw 25% of the amount in deposit with the Registry of this Court. Respondent No. 1 shall furnish an undertaking that in case the appeal is allowed and he is required to refund the amount, he shall do so within six weeks of such direction with such interest as this Court may in that event direct.

We grant liberty to Respondent No. 1 to move fresh application with suitable material supporting the need of construction of house or need of purchase of land and amount approximately required for said purpose.

With these directions and liberty, we dispose of the present Civil application. No costs.

CROSS APPEAL NO. 39 OF 2015

Heard.

Admit.

Shri Parihar, learned counsel waives notice for the Acquiring body – original appellant.

Mrs. Rashi Deshpande, learned AGP waives notice for other respondents.

JUDGE

JUDGE

*GS.