

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

FIRST APPEAL NO.15/2015

Madhukar Vithoba Gulhane

...Versus...

The Executive Engineer, Bembla Project Division, Yavatmal and others

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

Court's or Judge's orders

Shri A.B. Nakshane, Advocate for appellant
Shri S.S. Godbole, Advocate for respondent no.1
Mrs. B.P. Maldhure, AGP for respondent nos.2 and 3

CORAM : Z.A. HAQ, J.

DATE : 24.02.2015

Heard the learned Advocates for the respective parties.

The appeal is filed by the land owner/claimant seeking modification of the order passed by the reference Court under Section 18 of the Land Acquisition Act, 1894 and praying for enhanced amount of compensation.

The agricultural land admeasuring 4.26 hectares owned by the appellant came to be acquired for the Bembla Project pursuant to the notification published under Section 4 of the Land Acquisition Act, 1894 on 31.12.1998. The award was made on 22.2.2002 and the Land Acquisition Officer granted compensation @ Rs.50,235/- per hectare for 4.11 hectares and Rs.1,500/- for 0.15 hectare (Pot-Kharab land). The land owner/claimant being dissatisfied with the amount of

compensation had filed the reference under Section 18 of the Land Acquisition Act, 1894. The reference Court by the order dated 26.8.2009 granted compensation @ Rs.1,25,000/- per hectare. The appellant/land owner being dissatisfied with the amount of compensation filed this appeal.

The learned Advocate for the respective parties submit that this Court has decided First Appeal No.1263/2009 and other connected matters on 26.7.2012 and has concluded that the land owners in those cases are entitled for compensation @ Rs.1,35,000/- per hectare. The learned Advocate has submitted that First Appeal No.1263/2009 and other connected matters had arisen out of the land acquisition proceedings pursuant to the same notification under Section 4 of the Land Acquisition Act, 1894 and were in respect of the land situated in the same village and acquired for the same project. It is not disputed that the land of the present appellant/land owner is situated in the vicinity of the lands which were subject matter of First Appeal No.1263/2009 and other connected matters.

In view of the above, the first appeal is partly allowed. It is held that the appellant/land owner is entitled for compensation @ Rs.1,35,000/- per hectare. The reference Court has granted compensation @ Rs.1,25,000/- per hectare. After deducting this amount, the appellant/land owner is entitled for the enhanced amount of compensation of Rs.10,000/- per hectare along with other statutory benefits. The appeal was filed by the appellant after the prescribed period of limitation. While condoning the delay, this Court by the order dated 15.11.2014 recorded the undertaking given on behalf of the appellant that the appellant will not claim interest on the amount of compensation

for the period from 26.8.2009 till 15.11.2014. The amount of interest receivable by the appellant/land owner shall be calculated accordingly.

The first appeal is partly allowed in the above terms. In the circumstances, the parties to bear their own costs.

JUDGE

Wadkar