IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

32 WRIT PETITION NO. 6493 OF 2016

SATISH DNYANOBA JAGTAP AND OTHERS
VERSUS
THE UNION OF INDIA AND OTHERS
...
Advocate for Petitioners : Mr. A. N. Nagargoje h/for Mr. D. M. Mane And Mr. R K Shingnapure

Advocate for Respondent No.1 :Mrs. Dipali S. Ansingkar-Jape, Standing counsel.
Advocate for Respondent No.2 :Ms P. S. Talekar i/by Talekar and Associates
AGP for Respondent Nos.3 to 5 State: Mrs. M.A. Deshande

WITH

WRIH PETITION NO.6486/2016

HIMMATSINH DESAI DESHMUKH
VERSUS
THE NATIONAL HIGHWAYS AUTHORITY OF INDIA AND OTHERS
...
Advocate for Petitioners : Mr. N. V. Gaware
Advocate for Respondent Nos.1 and 3 :Ms P. S. Talekar i/by Talekar and Associates
AGP for Respondent NoS.2,4 & 5 State: Mrs. M.A. Deshande

CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.

DATE : 16th November, 2016

ORDER:

1. The petitioners' grievance in the present petitions is with regard to the quantum of compensation paid to them by the applying erroneous multiplier so also deduction of TDS.

2. As far as deduction of TDS is concerned, the Income Tax Department is not party to the present writ petitions. In absence of Income Tax Department, it will

not be possible to consider the case of the petitioners to the extent of deduction of TDS. The petitioners may raise their challenge with regard to the deduction of tax at source in appropriate proceedings, as may be permissible in law.

3. One of the contention of the petitioners is that the deduction has been made while considering the area of the land in awarding compensation. If the land is below 2000 square meters, then 100% compensation is paid. If land acquired is between 2001 to 4000 square meters, then 80% compensation is considered. The said percentage goes on decreasing as the area of land increases. According to the learned counsel, the said methodology adopted while computing the compensation is erroneous.

4. Other objection raised is with regard to the multiplier applied. According to the learned counsel, on the date of publication of notification under section 3-A of the the National Highways Act, 1956, the acquired land was situated within the limits of village panchayat, however, on the date the award was passed, the land came within the vicinity of Nagar Panchayat. According to the petitioners, valuation has

to be made as on the date of notification under section 3-A of the National Highways Act.

5. There cannot be any dispute with the proposition that the market value of the land acquired has to be determined on the date of notification under Section 3-A of the National Highways Act, 1956. Reference can be had to sub section 7 of section 3-G of the National Highways Act. As per the schedule attached to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, if the land is situated in the rural area, multiplier factor is 2 and for the land situated in other areas, the multiplier factor defers.

6. As per section 3-G(5) of the National Highways Act, 1956, if any dispute arises with regard to the determination of compensation amount, the parties have remedy to approach the Arbitrator. As such, the parties have to approach the Arbitrator for claiming enhancement of compensation amount and while doing so the Arbitrator can consider whether the correct methodology has been applied while computing the compensation amount including the multiplier factor, considering the fact that the market value is to be

determined on as on the date of notification under Section 3-A of the National Highways Act which, in this case is of 24.03.2013.

7. The petitioners may file their claim with the Arbitrator within one month from today. If the said application is filed, the Arbitrator shall consider all the grievances that would be raised by the petitioners and as observed in the present order. The said proceedings be decided expeditiously.

8. Writ petitions are accordingly disposed of. No costs.

(K. L. WADANE, J.) **(S. V. GANGAPURWALA, J.)**

JPC