

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.4 OF 2016

IN

FIRST APPEAL NO.371 OF 2014

1) Maruti s/o Prabatrao Chavan,
Since died through his L.Rs.

1-a) Bapu S/o Maruti Chavan
and others.

...APPLICANTS

VERSUS

The Deputy Chief Engineer
(Construction), Central Railway,
Division, Pune
and another.

...RESPONDENTS

...

Mr. G.D. Kale Advocate for Applicants.
Mr. M.N. Navandar Advocate for Resp. No.1.
Mr. P.S. Patil, A.G.P. for Resp. No.2.

...

**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 8TH JANUARY, 2016

ORDER :

1. This is an Application by the claimants

seeking directions to the acquiring body to deposit remaining 50% amount awarded by the Reference Court.

2. While admitting the Appeal, this Court directed the Appellant to deposit 50% amount out of the total amount awarded by the Reference Court, together with interest. Agricultural land to the extent of five Hectors and 47 R belonging to the Applicants - original claimants came to be acquired for broad gauge railway line. Notification under Section 4 of the Land Acquisition Act was issued on 11th February 1996, whereas award was passed on 31st January 1999. The S.L.A.O. prescribed the value of the land at Rs.930/- per R i.e. Rs.37,200/- per acre. In the Reference Court the claimants claimed compensation at the rate of Rs.100 per Sq. Ft. The Reference Court accepted the total claim of the claimants and awarded compensation at the rate of Rs.100/- per Sq. Ft. The Reference Court recorded findings

that land under acquisition has non agricultural potential and as such proceeded to award compensation on Sq. Ft. basis. Although the compensation at the rate of Rs.100/- per Sq. Ft. has been awarded, there are no deductions directed by the learned Judge of the Reference Court towards the development such as open spaces, roads and other amenities. It ought to be considered that Section 4 Notification was issued in the matter on 11th February 1996. As such the value of the land shall be considered on the date of issue of Section 4 Notification. Alleged conversion of the land for non agricultural use at the instance of the Applicants, and that too in respect of adjoining land, is on 2th July 2004, much after the declaration of award by the S.L.A.O. Subsequent development of conversion of land for non agricultural use in the year 2004, cannot be considered as an aspect for consideration of the value of the land under acquisition and its non agricultural potential in the year 1996. In view

of the Judgment of the Supreme Court in the matter of **State of Maharashtra and others vs. Digamber Bhimshankar Tandale and others, reported in (1996) 2 Supreme Court Cases 583**, computation of compensation on per Sq. Ft. basis in respect of large extent of land, is illegal.

3. Taking into consideration all these aspects, since Appeal is admitted and claimants need to be paid certain amount, we directed the acquiring body to deposit 50% amount out of the total amount awarded by the Reference Court and in compliance of our directions amount has been deposited by the acquiring body. We do not think it necessary to recall or modify the order. The Application is devoid of substance. The Civil Application is dismissed.

[A.I.S. CHEEMA, J.]

[R.M. BORDE, J.]

asb/JAN16