

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

CIVIL APPLICATION (CAO) NO.674 OF 2016
IN
CIVIL APPLICATION (CAF) NO. 2147 OF 2015
IN
FIRST APPEAL NO.394 OF 2016

(EXE. ENGINEER, LOWER WARDHA PROJECT DN. WARDHA....VS..RITU VIJAY AGRAWAL & OTH.)

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

Court's or Judge's orders

Shri S.S.Godbole, Advocate for Appellant.
Shri S.D.Chopde, Advocate for Respondent No.1.
Ms S.Z.Haider, A.G.P. for Respondent Nos.2 & 3.

CORAM : Z.A.HAQ, J.
DATED : SEPTEMBER 30, 2016.

The claimant has filed this application seeking permission to withdraw the amount deposited by the appellant. The Land Acquisition Officer had granted compensation @ Rs.2,04,300/- per hectare for 2.2 hectare land. The reference Court has enhanced the amount of compensation determining it @ Rs.11,00,000/- per hectare. The reference Court has relied on the fact that the State Government has purchased 5.99 hectare land of adjoining village on 29th April, 2009 for Rs.1,42,09,553/-. In the present case, notification under Section 4 of the Land Acquisition Act, 1894 was published on 1st October, 2005. Considering these aspects, the reference Court has determined the amount of compensation @ Rs.23,72,212/- per hectare.

In another case i.e. L.A.C. No. 144 of 2005 the amount of compensation is determined @ Rs.20,00,000/- per hectare and in that case also the reference Court has relied on

the sale instance of 2009 referred above. The submission on behalf of the appellant is that the award passed by the reference Court in L.A.C. No. 144 of 2005 is challenged in First Appeal No.138 of 2014 and it is pending. The learned advocate for the appellant has submitted that the reference Court has also relied on the award passed in L.A.C. No. 132 of 2005 in which the reference Court determined the amount of compensation @ Rs.11,00,000/- per hectare. It is submitted that the award passed in Land Acquisition Case No. 132 of 2005 is challenged in First Appeal No. 905 of 2013 which is pending.

Considering the facts on record, specially the sale instances relied upon by the reference Court for determining the amount of compensation, in my view, the claimant can be permitted to withdraw 50% of the amount unconditionally. In addition, 25% amount be given to the claimant on furnishing solvent surety/ security and filing an undertaking to the satisfaction of the Registrar (Judicial) of this Court stating that if it is found that the claimant is not entitled for the amount received by him he will redeposit it along with interest as may be determined by this Court, within two months.

The balance 25% amount be continued in fixed deposit in the nationalized bank till disposal of the appeal.

The civil application is **allowed** in the above terms.

JUDGE

CERTIFICATE

I certify that this order uploaded is a true and correct copy of original signed order.

Uploaded by : R.B. Raut, PS

Uploaded on : 04/10/2016.