

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

984 FIRST APPEAL NO. 1172 OF 2017

SHAIKH SALIM SHAIKH VAZIR THR SPECIAL POWER OF ATTORNEY
MADAN SAKHARAM DHAPATE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Appellant : Mr. Gaikwad T. G.
AGP for Respondent No. 1 : Mr. B.A. Shinde

985 FIRST APPEAL NO. 1173 OF 2017

YUSUFKHAN SIKANDAR KHAN AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Appellants : Mr. Gaikwad T. G.
AGP for Respondent No. 1 : Mr. B.A. Shinde.

CORAM : K. L. WADANE, J.

DATE : 6th September, 2017

ORDER:

1. With the consent of the parties, above appeals are taken up for final hearing.

2. Mr. Gaikwad, learned counsel appearing for the appellants in both the cases has submits that, the appeals are restricted only to the extent of exclusion of the amount of compensation awarded by the Special Land Acquisition Officer. Mr. Gaikwad, learned counsel further submits that, in some of the land acquisition

references arising out of the same acquisition proceeding, the reference court has excluded the amount of compensation awarded to the claimants and in some of the claim petitions the learned reference court has included the amount of compensation awarded by the Special Land Acquisition Officer.

3. Learned A.G.P. submits that, the amount of compensation is to be deducted which is awarded by the Special Land Acquisition Officer from the amount of enhanced compensation awarded under section 18 of the Land Acquisition Act.

4. Mr. Gaikwad, learned counsel further points out the copy of the judgment passed in land acquisition reference No. 243/2003 dated 10.09.2013, by which, the reference court has excluded the earlier compensation paid to the claimant by the Land Acquisition Officer.

5. Mr. Gaikwad, learned counsel, further submits that, the reference filed by the applicants are arising out of the same acquisition proceeding. The order passed in Land Acquisition Reference No. 243/2003 was assailed before the Division Bench of this Court (Corum : R. M. Borde and N.W. Sambre, JJ.), in which

the appeals presented by the Acquiring Body were dismissed and the order passed in Land Acquisition Reference No. 243/2003 is confirmed. It means the amount of compensation excluded by the reference court is held to be proper.

6. Mr. Gaikwad, learned counsel further submits that, these land acquisition references under appeals are arising out of the same acquisition proceedings and the learned reference court has wrongly deducted the amount of compensation paid by the Land Acquisition Officer. Therefore, he has relied upon the judgment delivered by this Court in First Appeal No. 2638/2017 and other connected matters delivered by Coram : V.K. Jadhav, J.

7. Therefore, in view of the observations from the above cited cases and the fact that, in the identical matter the Division Bench of this Court has dismissed the appeal presented by the Acquiring Body, the present appeals are need to be allowed and accordingly both the appeals are allowed to the extent that Clause 'C' of the operative order of the learned reference court stands deleted. Rest of the judgment and award is

confirmed.

8. In view of the above, both the appeals are disposed of.

9. No order as to costs.

(K. L. WADANE, J.)

mkd