

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

908 FIRST APPEAL NO. 4314 OF 2016
WITH CA/6499/2007 IN FA/4314/2016

THE EXECUTIVE ENGINEER, LATUR MEDIUM PROJECT DIVISION, LATUR.
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Appellant : Mr. Ruturaj Patil
AGP for Respondents: Mr. S.S. Dande

CORAM : K.K. SONAWANE, J.

DATE : 30th November, 2017.

PER COURT:

1] Heard learned counsel for the applicant and learned AGP for the respondent No.1. The proceeding came to be dismissed against respondent No.2.

2] The learned AGP brought to the notice of this court that the connected FA. No. 922 of 2009 and 923 of 2009 arising from the same common judgment passed by the learned District Judge Nilanga in LAR No. 384 of 1998 to 401 of 1990 have already been dismissed after hearing on merit by this Court (Coram : P.R. Bora,J). This court confirmed the award passed by the learned District Judge. In such circumstances, he prayed to pass suitable orders in this matter.

3] The learned counsel for the appellant fairly conceded for the same. He further added that he has no instructions that any SLP has been filed against the impugned judgment passed by this court in First Appeal No. 922 of 2009 and other connected matters.

4] In view of the aforesaid submissions, it reveals that the first appeal filed on behalf of the Acquiring Body arising from the same award in companion matters came to be dismissed by this Court after considering merits of the appeals. The judgment and award passed by the Reference Court made absolute and confirmed by this Court and no interference is caused in the quantum of compensation amount determined by the Reference Court. In such circumstances, similar market value awarded to the land under acquisition for the same purpose and under the same notification, is essential to be given to the claimants in the present appeal. At this juncture, rule of parity, as contemplated under Section 28-A of the Land Acquisition Act plays significant role for consideration of the price for the lands in companion matters, to be just and proper market value for the lands in this appeal. Therefore, there is no propriety to go deep into the merits of the present appeal for examination of its ramification, to determine the correctness and validity of the findings expressed by the Reference Court. Hence, in view of earlier decision given by this court in companion matters, this appeal also deserves to be dismissed. Accordingly, the appeal stands dismissed.

In view of dismissal of the first appeal, civil application No. 6499 of 2007 does not survive. Same stands disposed.

[K.K. SONAWANE]
JUDGE.

grt/-