

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 947 OF 2017

RAMDAS KAUTIK CHINCHOLE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellant : Mr. A.B. Kale
AGP for Respondent No.1: Mr. A.M. Phule
Advocate for Respondent No.2 : Mrs. Chaitali R. Kutti Choudhary

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CORAM : V. K. JADHAV, J.
DATED : 25th JULY, 2017

PER COURT:-

1. This appeal deals with acquisition of the house property of the claimant on account of submergence of area under Waghur Dam.

2. A group of First Appeals, bearing First Appeal No.3060 of 2013 with connected First Appeals came to be disposed of by this Court (Coram : S.V. Gangapurwala, J.) vide judgment and order dated 19/12/2013, thereby upholding the valuation made by the Reference Court in respect of the land at Rs.600/- per R, however, had granted enhancement of compensation in respect of the structures, wherein the Valuer's report was considered by this Court and had deducted 10% from the said Valuer's report. In para 7, 8 and 9, it was observed as under :-

"7. The Court has appreciated the evidence on record and had come to the conclusion that he accepts the valuation report. But then no reason is given for deducting the amount in some of the matters up to 60% to 75% and in majority of matters 25%.

8. There may be some error. To work out the said margin of error, some deduction would be permissible from the amount as suggested by the Valuer. Considering the fact that the properties acquired are lands and small houses the margin of error would also be less.

9. In the light of the above, it would be appropriate to deduct 10% from the valuation as shown by the expert.

3. In a group of First Appeals bearing First Appeal No.2745/2015 with connected First Appeals, this Court (Coram : S. V. Gangapurwala, J.), vide judgment and order dated 21/10/2015, disposed of the said Appeals arising out of the same project and the judgment and award passed by the Reference Court in the light of the observations made earlier as referred in para No.2 of this order, bearing First Appeal No.3060/2013 with connected First Appeals.

4. A chart duly signed by the learned counsel appearing for the respective parties, is tendered across the bar, the same is taken on record and marked "X" for identification.

5. In light of the above, I pass the following order :

(i) First Appeal stand partly allowed, with no order as to costs.

(ii) The claimant in this appeal would be entitled for the compensation for the house properties acquired by deducting 10% from the valuation as shown by the expert, with all statutory benefits, as awarded by the reference court and the respondent shall pay the compensation amount to the claimant

as above in respect of house property alongwith with all statutory benefits as held by the Reference Court.

(iii) In respect of enhanced compensation amount, the claimant would not be entitled for the interest on the enhanced compensation amount for the delayed period in view of order dated 27.02.2017 passed by this Court in civil application No. 13231 of 2014.

(iv) First appeal is disposed of.

(V. K. JADHAV, J.)

rlj/