

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

LAND ACQUISITION REFERENCE NO.5/2004

IN
LAQ/SR/540

The Special Land Acquisition Officer (2)

And

Shri Hariram Chabbal Singh

... Claimant

And

Executive Engineer, Mumbai Road,
Development and Designs Division No.II

... Acquiring Body

Ms. Kavita Solunke, AGP for the SLAO
None for the claimant and the Acquiring Body.

CORAM: K.K. TATED, J.
DATED : JANUARY 13, 2017

PC. :

1. Heard the learned AGP for the applicant. Though the claimants are duly served, none appeared on behalf of them when the matter was called out.
2. Yesterday also the matter was shown on board for final hearing. As none appeared on behalf of the claimant, the matter was posted today for final hearing.
3. The Reference has been filed by the applicant on the basis of the request made by the claimant for enhanced compensation in respect of the acquired land admeasuring 397.8 sq.mtr. from Sy.No.181/2 CTS No.222(pt) situated at village Anik, Tq. Kurla, Dist. Mumbai Suburban.

4. The Land Acquisition Officer issued Notification u/s.126(4) of the Maharashtra Regional and Town Planning Act, 1966 read with Section 6 of the Land Acquisition Act, 1894 on 04.07.1997 and same was published in Maharashtra Government Gazette – Part-I dated 24.07.1997 at page No.547. Same was also published in news paper on 31.07.1997. After following due process of law, the Special Land Acquisition Officer declared the Award on 11.04.2000 awarding compensation in respect of the acquired land @ Rs.3500/- per sq. mtr. a/w. 30% solatium and 12% component from 28.10.1997 to 11.04.2000. The Land Acquisition Officer awarded total compensation of Rs.22,20,585/-.

5. Being aggrieved by the said Award, the claimant made Reference u/s. 18 of the Land Acquisition Act, 1894. The notices were duly served on the claimants. In spite of that none appeared on behalf of them before this court.

6. The learned AGP for the applicant Land Acquisition Officer submits that by Award dated 11.04.2000 they acquired 11140.8 sq.mtr. land from village Anik, Tq. Kurla, Dist. Mumbai for public purpose i.e. for Eastern Freeway Portion between RCF to Mahul Ghatkopar Road. She submits that from the same acquisition, Mrs. Hilla S. had filed LAR No.1/2002 before this court. This court, by judgment dated 31.01.2014 held that the claimants are entitled compensation in respect of the acquired land @ Rs.3950/- per sq.mtr, after deducting the development charges and other expenses. The learned AGP fairly

submits that as the acquisition is from the same proceedings, the Award was also common, hence the claimants are entitled to compensation in respect of the acquired land @ Rs.3950/- per sq.mtr. as per the judgment dated 31.01.2014 in LAR No.01./2002.

7. On the basis of the pleadings and the submissions made by the learned AGP, the issues involved in the Reference is as under:

- At what rate the *claimant is entitled to compensation in respect of the acquired land* ?
- @ Rs.3950/-.

8. I heard the learned AGP for the applicant, gone through the copy of the Award, Reference Application and the judgment dated 31.01.2014 in LAR No.1/2002.

9. Considering the reasons given by this court in the judgment dated 31.01.2014 in LAR No.1/2002 and on the basis of the judgment of the apex court in the matter of ***Union of India (UOI) Vs. Bal Ram & Ors. AIR 2004 SC 3981*** and the High Court judgment in the matter of ***Bayaji Tatya Kalunge Vs. State of Maharashtra 2007(2) ALL MR 316*** maintaining the parity between the parties from the same acquisition, I am of the view that the claimant is entitled to enhanced compensation in respect of the acquired land @ Rs.3950/- per sq.mtr.

10. Hence, the Reference is partly allowed as under:

- a. The claimant is entitled to compensation in respect of the acquired land admeasuring 397.8 sq.mtr. from Sy.No.181/2, CTS

No.222(part) @ Rs.3950/- per sq.mtr. instead of Rs.3500/- per sq.mtr. as awarded by the Land Acquisition Officer along with other statutory benefits as per the amended provisions of the Land Acquisition Act, 1894.

b. No order as to costs.

c. The Land Acquisition Reference stands disposed of accordingly.

(K.K. TATED, J.)