

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

Civil Application No. 2846/2017

Devidas Kesharao Pardhake

Vs

The Executive Engineer, Bembla Project Division and others.

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

Court's or Judge's orders

Shri A.B. Nakshane, Adv. for the applicant.

CORAM : S.B.Shukre, J.

DATE : 19.7.2017.

Civil Application No. 2846/2017

Heard the Learned Counsel for the appellant.

The application is allowed. Delay is condoned subject to the condition that the interest on the enhanced compensation, if any, shall not be claimed by the appellant in case, enhanced compensation is granted by this Court, for the period from 22nd July, 2011 till today. The application is disposed of.

FA St. No.7038 of 2017

Heard.

Admit.

There is no necessity to call for any record and proceedings as the issue involved in this appeal is

covered by the judgment passed by this Court in First Appeal no. 86/2017 dated 31th January, 2017.

In view of above, the First Appeal is heard finally by consent of the parties.

The land of the claimant has been acquired, which was from Dighi Village, for Bembla river project and Section 4 notification was issued on 14th August, 2003. The Land Acquisition Officer passed an award on 31st May, 2005 and granted compensation of Rs. 78,253/- per hectare as against the demand of Rs. 2,50,000/- per hectare. The dispute was carried by way of reference to the Court of Civil, Senior Division and the adjudication given by the Reference Court was to the effect that the market value of the land determined by the Land Acquisition Officer being on the lower side was required to be enhanced and fixed at Rs. 1,65,000/- per hectare. Accordingly, this rate was found to be a correct representative of the market value of the acquired land and thus the impugned order was passed by the Reference Court on 22nd July, 2011.

In First Appeal No. 921/2015, similar land as

the one involved in this appeal situated at Village Dighi was found to be having a market value of Rs. 2,10,000/- per hectare by this Court and this rate was accordingly granted to the claimant in First Appeal No. 921/2015 by this Court.

In First appeal No. 86/2017 also the land acquired was from Dighi Village and had similarities with the land involved in First Appeal No. 921/2015 and therefore, this Court, by the judgment and order dated 31st January, 2017 disposed of the appeal by granting the rate for the acquired land at Rs. 2,10,000/- per hectare.

In the instant case, we have seen that the land acquired was from village Dighi for Bembla River Project under the same notification and was covered by this same award dated 31st May, 2005. The land is also similar to the lands involved in First Appeal No. 86/2017 and 921/2015. Therefore, I have no hesitation to hold that the market value of the land acquired in this appeal would also be of Rs. 2, 10,000/- per hectare and accordingly it is declared that the claimant is

entitled to receive the compensation at the rate of Rs. 2,10,000/- per hectare for the land acquired. The impugned Award stands modified to this extent while remaining parts of the award stand confirmed. However, it is made clear that in view of order passed by this Court while disposing of Civil Application No. 280/2017, the claimant shall not be entitled to receive any interest on that portion of the compensation which is due and payable to the claimant on account of the enhancement in compensation made now by this Court and it would not mention for the period from 22nd July, 2011 till 19th July, 2017.

Parties to bear their own costs.

Disposed of.

JUDGE

A.P. Ansari