

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

C.A.F. No.2481/2017 in F.A. St. no. 11396/2017

Swarupchand Motilal Jain (Bohra) V/s The State of Maharashtra 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. G.R. Kothari, Advocate for appellant.
Shri C.A.Lokhande, AGP for respondents.

CORAM : S.B.SHUKRE, J.

DATED : 14th JULY, 2017.

C.A.F. No. 2481/2017

Heard.

Learned counsel for the applicant and learned A.G.P. for the respondents. For the reasons stated in the application, the delay caused in filing the appeal is condoned. Application is allowed and disposed of accordingly. Appeal be registered.

Applicant is directed to remove office objection by paying the requisite court fees within two weeks from today.

First Appeal St. No.11396/2017

Heard learned counsel for the appellant and the learned Assistant government pleader for the respondent no. 1 to 3.

Admit. There is no need to call for Record and Proceeding as the issue involved in this appeal is squarely covered by the judgment of this court in First Appeal 269/1998.

The land of the appellant was acquired for public purpose which is admeasuring 2.49 Hector, situated at Deurwada, District Yavatmal. The Reference Court determined the market value of the land at Rs. 30,000/- per hector and partly allowed the reference under Section 18 of Land Acquisition Act.

In First Appeal nos. 269/1998 and 523/98, decided on 13.10.2014, this Court found that the rate of the land should have been at Rs. 65,000/- per hector if the land is non irrigated one. This judgment was also followed by this Court in First Appeal No. 592/1994 decided on 16.1.2017. In the present case also, the land acquired is dry crop land and similarly situated as the land involved in First Appeal Nos. 269/98, 523/98 and 592/94. There is no dispute about this fact. Therefore, I am of the view that even for the acquired land, in the instant case, same rate as was determined by the Court in the above referred appeals, would have to be fixed for giving just and proper compensation.

Therefore, I find that the market value of the acquired land in the present case is of Rs. 65,000/- per hector and the compensation deserves to be given at this rate to the appellant. The appellant would also be entitled to receive other benefits regarding interest, solatium at the same rates as given by the Reference Court in its judgment and order dated 7/12/1993.

However, the appellant shall not be entitled to receive interest on the enhanced compensation as is enhanced by this Court under this order for the period from 7/12/1993 till 14/7/2017. The appeal is allowed accordingly. The impugned judgment and order stand modified in the above terms. If there is any deficit on account of payment of court fee, same shall be paid within two weeks from the date of order. No cost.

JUDGE