

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

CAF 466/2017 in FA St.No.22561/2016

Darwha Nagar Parishad through its Chief Officer

Vs.

Kishore Parmanand Gherwara and another

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

Court's or Judge's orders.

Mr. Rahul Tajne, Advocate for the applicant/appellant.
Mr. Kothari, Advocate for R.No. 1.
Mrs. Mrunal Naik, AGP for respondent no.2.

CORAM : N.W.SAMBRE, J.

DATE : APRIL 05, 2017

Heard.

For the reasons disclosed in the
application, the delay caused in preferring the first
appeal stands condoned.

The application stands disposed of.

First Appeal St.No.22561/2016

In Land Acquisition Case No. 135/1992,
the respondent/claimant sought enhancement, which
is granted by the learned reference Court to the
extent of Rs.150/- sq.ft. for 0.7 R land from field
Survey No.14/1 and 0.23 R land from field Survey
No.15/1 of Mouza - Darwha, Tq. Darwha, District

Yavatmal, which was acquired for the purpose of Municipal School building.

Having heard respective counsel for some time, it is noted that the claimant has restricted his claim to the extent of Rs.150 sq.ft. for the acquired land.

In the aforesaid background, reliance was placed upon the sale instance of Arni town, which is a taluka place and the same is considered in L.A.C.No.2073/2004, placed at Exh. 78. The learned reference Court has accordingly awarded compensation at Rs. 150/- sq.ft.

It is brought to my notice that Darwha town and Arni town are two different places and the distance between these two places is more than 25 km. It is required to be noted that the commercial potential of both these places cannot be considered at par, as Arni is identified as a town having great commercial potential since quite long time.

Apart from above, it is further brought to my notice that the learned Assistant District Government Pleader appeared for the Acquiring Body without there being any instructions.

As the matter is heard finally with the consent of parties, in view of above observations, in my opinion, the case for remand is made out.

The judgment delivered by learned Civil Judge, Senior Division, Yavatmal, on 13.04.2016 in L.A.C.No.135/1992 is hereby quashed and set aside. The Land Acquisition Case No. 132/1992 stood restored to the file of learned Civil Judge, Senior Division, Darwha, who shall decide the same afresh by giving appropriate opportunity of hearing to the respective parties, if require to lead additional evidence. The parties hereto agree that they shall appear before the learned Civil Judge, Senior Division, Darwha, District Yavatmal, on 28th April, 2017.

With these observations, the appeal stands partly allowed. No costs.

Both the parties are on consensus that in view of of establishment of the Court of Civil Judge, Senior Division at Darwha District Yavatmal, the matter can be dealt with by the said Court at Darwha.

In view thereof, learned Civil Judge, Senior Division, Yavatmal, is directed to forthwith forward the record and proceedings of Land Acquisition Case no. 135/1992 to the Court of Civil Judge, Senior Division, Darwha, for deciding it afresh in the background of the observations made hereinabove.

The hearing of the reference is expedited and it is directed that the proceedings are pending since 1992, the same be decided within a period of six months from the appearance of the parties.

JUDGE

Andurkar..