

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

C.A.O. NO. 295/2018
IN
M.C.A. (ST) NO. 1201/2018
IN
FIRST APPEAL NO. 26/1998

Smt. Kantabai Wd/o Mahadeorao Bhelonde and ors.

..VS..

The State of Maharashtra & anr.

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 the appellant(s)

CORAM : Z.A.HAQ, J.
DATED : 12/04/2018

This application is filed by the claimants praying that delay of 3036 days in filing the miscellaneous civil application, praying for restoration of the appeal, be condoned.

Accepting the explanation given in the application, delay of 3036 is condoned.

The civil application is allowed accordingly. No costs.

M.C.A. (ST) NO. 1201/2018

Considering the facts of the case and accepting the explanation given in the application, the first appeal is restored.

Ms. M. Barabde, AGP waives notice for the respondents of the first appeal.

The miscellaneous civil application is allowed

accordingly. No costs.

F.A. (St.) NO. 26/1998

As the appeal is of 1998 and R. & P. is received, the appeal is taken up for hearing. The learned advocate for the claimants has pointed out the judgment given by this Court in F.A. No. 433/2017 on 18/07/2017 by which the claimants in that appeal are granted compensation of Rs. 3,50,000/- for dry crop land. It is submitted that the land which is the subject matter of the present appeal and the land which was the subject matter of F.A. No. 433/2017 were acquired by the same notification issued under Section 4 of the Land Acquisition Act, 1894 and for the same project i.e. Arunawati Project and as the land of the claimants in the present appeal was an irrigated land, the claimants in the present appeal should be granted compensation @ Rs. 7,00,000/- per hectare.

The learned AGP has pointed out that the judgment delivered in F.A. No. 433/2017 records that the compensation of Rs. 3,50,000/- per hectare was granted, relying on the award passed by the Reference Court in L.A.C. No. 442/1992. It is submitted that at the time of hearing of F.A. No. 433/2017, a representation was made that the award passed by the Reference Court in L.A.C. No. 442/1992 was not challenged however, the award passed by the Reference Court in L.A.C. No. 442/1992 is challenged by the acquiring body in F.A. No. 515/1995 which is still pending before this Court.

In the above facts, prima facie I find that the judgment delivered in F.A. No. 433/2017 is obtained by the parties by misrepresentation.

The learned AGP submits that steps will be taken to file an application seeking review of the judgment delivered in F.A. No. 433/2017 and prays for 10 days' time.

The learned AGP has further pointed out that in L.A.C. No. 432/1992 which was also in respect of the land acquired by the same notification issued under Section 4 of the Act of 1894 and for the same project i.e. Arunawati Project, compensation @ Rs. 55,000/- per hectare was granted, this order was challenged by the claimants in F.A. No. 270/1995 which is decided by this Court on 18/01/2018 and this Court has held that the claimants are entitled for compensation @ Rs. 1,00,000/- per hectare.

The learned AGP is directed to point out the copy of the judgment delivered in F.A. No. 270/1995 to the Court when review application filed on behalf of the V.I.D.C would be heard by the Court.

List the appeal for further consideration on 24/04/2018.

JUDGE

Ansari