

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

C.A.F. NO.2742/2017

IN

FIRST APPEAL STAMP NO.3196/2017

The Executive Engineer, Bembla Project Yavatmal, Tah. and Distt. Yavatmal
 ..Vs..

Namdev S/o Bapurao Punse (dead) through Legal Heirs 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 P.B. Patil, Advocate for the applicant / appellant.
 Ms. Mayuri Deshmukh, A.G.P for respondent Nos. 5 and 6.

CORAM : Z.A. HAQ, J.

DATE : 5.3.2018.

None appears for the respondent Nos.1 to 4
 though served.

Accepting the explanation given in the
 application, delay of 387 days in filing the appeal is
 condoned. The civil application is **allowed** accordingly.
 No costs.

FIRST APPEAL STAMP NO.3196/2017

Heard Shri P.B. Patil, Advocate for the
 appellant and Ms. Mayuri Deshmukh, A.G.P. for
 respondent Nos.5 and 6.

The appellant has challenged the award
 passed by the Reference Court by which the amount of
 compensation receivable by the claimants is enhanced.
 The compensation is for acquisition of plot admeasuring
 56.75 Sq. Mtrs. with construction of 53.75 Sq. Mtrs. over
 it. The Reference Court has determined the amount of

compensation for the open plot at the rate of Rs.550/- per Sq. Mtr. For determining this amount of compensation, the reference Court has relied on the judgment given in First Appeal No.487/2006 and other connected matters, on 12th and 13th October, 2010. In these appeals, the issue was about the amount of compensation receivable by the claimants whose lands situated at village Dighi were acquired for Bembla project. By the judgment given in First Appeal No.487/2006 and connected matters, this Court has held that the claimants were entitled for compensation at the rate of Rs.500/- per Sq. Mtr.

In the present case also the land is acquired for Bembla project. The notification under Section 4 of the Land Acquisition Act, 1894, in respect of acquisition of lands which were subject matter of First Appeal No.487/2006 and other connected matters, was issued on 4th February, 1999 and in the present case, the notification under Section 4 is issued on 22nd March, 1999. In the present case, the reference Court has held that the claimants are entitled for compensation at the rate of Rs.550/- per Sq. Mtr.

The amount of compensation awarded by the reference Court in the present case is Rs.50/- per Sq. Mtr. more than the amount of compensation determined in First Appeal No.487/2006 and other connected matters. The land which is acquired was 56.75/- Sq. Mtrs., and therefore additional amount of compensation for land comes to Rs.2,838/-.

In respect of the construction, the Land Acquisition Officer had granted compensation at the rate of Rs.1,050.66/- per Sq. Mtr. According to the policy of State Government, if the enhanced amount of compensation in respect of construction is 25%, it is acceptable to it. If the respondents / claimants are held entitled for 25% enhancement in the amount of compensation, it comes to about Rs.1,313/- per Sq. Mtr. The reference Court has granted compensation for construction at the rate of Rs.1,400/- per Sq. Mtr. The difference is of Rs.87 per Sq. Mtr. The construction was 53.75 Sq. Mtr. The enhancement in the amount of compensation for construction comes to Rs.4,676/-.

Considering the above facts and as the appellant has not been able to point out any illegality or perversity of such nature which necessitates interference by this Court with the impugned order, the appeal is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE