

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

CIVIL APPLICATION (CAF) NO.2832 OF 2017

WITH

FIRST APPEAL STAMP NO.3471 OF 2017

(THE EXECUTIVE ENGINEER.....VS.. BHIMRAO DAULATRAO DHOPTE & OTH)

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 Applicant/Appellant.
Ms A.R.Kulkarni, A.G.P. for Respondent Nos.2 & 3.

CORAM : Z.A.HAQ, J.

DATED : SEPTEMBER 26, 2018.

Pursuant to the notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”) on 10th December 1999, 781 sq. mtrs. of land along with construction of 185.42 sq.mt. was acquired. The Land Acquisition Officer determined the compensation for land @ Rs.75/- per sq. meter and for construction @ Rs.1495/- per sq.mt.

Being dissatisfied with the amount of compensation determined by the Land Acquisition Officer, the claimant had requested for reference under Section 18 of the Act of 1894.

By the impugned award, the Reference Court has held that the claimant is entitled for compensation for the land (open plot) @ Rs.650/- per sq.mt. and for construction @ Rs.1945/- per sq.mt. The amount of compensation is determined by the reference Court relying on the award passed in Case No.60 of 2006. In paragraph 14 of the impugned award, it is recorded that in Case No.60 of 2006, compensation for land/ open plot is determined @ Rs.650/-

per sq.mt. It is further recorded that the compensation for the land and construction of the present claimant is determined by the same award which was subject matter of Case No.60 of 2006 and both the acquisitions were pursuant to the same notification. The applicant/ appellant has not been able to point out that the award passed in Case No.60 of 2006 is challenged further.

The relevant considerations for determining the amount of compensation for construction are found in paragraph No.16 and 17 of the impugned award.

There is delay of about 1304 days in filing the appeal. The inordinate delay is explained in paragraph Nos. 2, 3 and 4 as follows:

“2.It is submitted that, on receipt of representation made by Non applicant no.1, the appellant first time came to know about the passing of the judgment. Thereafter the applicant instructed the local counsel to apply for certified copies. Accordingly, he applied on 29/09/2016 which receives to him on 20/10/2016. Meantime considering the enhancement, the office of applicant prepared the necessary proposal. The said proposal was considered by Executive Engineer on 22/03/2016 and by the Legal Advisor on 28/03/2016. The matter was also considered by Executive Director on 28/03/2016. The aforesaid authorities recommended for filing appeal.

3) It is submitted that the matter was allotted to panel counsel on 12/09/2016 which received on 15/09/2016. However the certified copies were not available at that time, therefore the same were handed over to the panel counsel on 13/10/2016, 21/10/2016, 27/10/2016, 16/11/2016 and 30/11/2016.

The panel counsel by his letter Dt. 17/10/2016 demanded the court fees to Department. The Court fee was made available by the Department on 02/12/2016. Thereafter the appeals were drafted, there were near about 80 appeals which consumed some time. Thereafter the court fee was purchased which also consumes some time. However during the course of aforesaid procedure delay of 1304 days is caused in filing accompanying appeal.

4) Apart from aforesaid position, the other facts to be considered are as under:

(i) For the purpose of Bembla Irrigation Project 10350 Hecter land was acquired, due to which 24 villages were required to be rehabilitated and under Section 18 about 5,000 reference cases were filed by the claimants.

ii) It is submitted that from 2009 to 2011 near about 2100 cases were decided by the Reference Court. At the relevant time there was no separate legal cell in the office of Bembla Project due to which there was lack of proper and effective co-ordination between the office and panel counsel of V.I.D.C. handling the matters before the Reference Court.

(iii) It is submitted that necessary permission for appointment of one Legal coordinator holding law degree and having experience of legal practice and two Assistance was granted in year 2015 and necessary appointments on contract basis were done and legal cell was constituted in 2015. After constitution of legal cell, proper coordination was done and the appeals are filed expeditiously.

(iv) It is further submitted that, apart fro the regular work of construction of Bembla Project and court matters, the office of Bembla Project was entrusted the work of rehabilitation of 24 villages. The work of rehabilitation and providing of civic amenities was also required to give priority as it relates to residence facility with necessary amenities.

(v) That, due to aforesaid reasons there was delay caused in filing appeals. However after 2015 the work of filing appeal

is regulated properly and appeals are being filed within reasonable period.

(vi) That, in some matters the decision about filing and appeals were taken on basis of copies of reference court award supplied by claimants at the relevant time but appeals could not be filed for want of certified copies and other record which were subsequently arranged.”

The explanation given for the inordinate delay in filing the appeal is as vague as possible and it reflects callousness on the part of the officers of the VIDC in dealing with the matter. The inordinate delay of 1304 days in filing the appeal cannot be condoned on the basis of the vague averments made in the application.

The civil application is **dismissed**. Consequently, the appeal is **rejected**. In the circumstances, the parties to bear their own costs.

The amount deposited by the applicant/ appellant with the Registry of this Court along with interest on it, if any, be given to the non-applicant(claimant).

JUDGE