

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

FIRST APPEAL NO.543/2016

Executive Engineer,
 Lower Wardha Project Division,
 Wardha, Tah. & Distt. Wardha.

..Appellant.

..Vs..

1. Diwakar S/o Vasudeorao Dehankar,
 aged about 53 Yrs., Occu. Agriculturist,
 R/o Plot No.88-A, Jawahar Nagar,
 Manewada Road, Nagpur.
2. Namdeo S/o Vasudeorao Dehankar,
 aged about 63 Yrs., Occu. Service,
 R/o Mahatma Gandhi Nagar,
 Nagpur.
3. State of Maharashtra,
 through its Collector, Wardha,
 Tah. and Distt. Wardha.
4. The Special Land Acquisition Officer,
 Wardha, Tah. and Distt. Wardha.

..Respondents.

 Shri S.K. Bhoyar, Advocate for the appellant.
 Shri S.R. Deshpande, Advocate for respondent Nos.1 and 2.
 Ms. Mrunal Barabde, A.G.P. for respondent Nos.3 and 4.

CORAM : Z.A. HAQ, J.
DATE : 7.3.2018.

ORAL JUDGMENT

1. By interim order passed in this appeal, the execution of impugned award is stayed on condition that the appellant shall deposit the entire amount

as per impugned award. The appellant has deposited amount of Rs.23,54,236/- vide cheque No.060472, dated 16th January, 2017. Now the respondents / claimants pray that they be given the amount lying in deposit with the Registry of this Court.

2. This appeal is filed against the award passed by the Reference Court by which the amount of compensation for the acquired land is enhanced. The Land Acquisition Officer had granted compensation at the rate of Rs.46,000/- per hector, the extent of acquired land being 2 H 85 R out of Survey No.104 and 2 H 83 R out of Survey No.105 of Village Antardoh, Tah. Arvi, Distt. Wardha. On reference under Section 18 of the Land Acquisition Act, 1894 the Reference Court has held that the claimants are entitled for compensation at the rate of Rs.1,25,000/- per hector for both the acquired lands.

3. The appeal is admitted and is pending for final hearing. The appellant has deposited the amount of compensation in compliance with the order passed by this Court while granting stay to the execution of impugned award. The respondent Nos.1 and 2 / claimants have filed Civil Application No.707/2018 seeking permission to withdraw the amount deposited by the appellant.

4. The learned Advocates for the respective parties have pointed out

the Government Resolutions dated 3rd November, 2016 and 23rd February, 2017 incorporating the policy of the State Government regarding filing of appeals to challenge the award passed under Section 18 of the Land Acquisition Act, 1894. These government resolutions lay down that appeal should not be filed to challenge the award passed under Section 18 of the Land Acquisition Act, 1894 if the amount of compensation granted by the Reference Court does not exceed four times the valuation of the land / property in question as per ready reckoner on the date of issuance of notification under Section 4 of the Land Acquisition Act, 1894.

5. The learned Advocates for the respective parties have submitted that the amount of compensation granted by the Land Acquisition Officer was based on the valuation shown in the ready reckoner at the relevant time and the amount of compensation granted by the Reference Court, in respect of the land will not exceed four times the amount of compensation granted by the Land Acquisition Officer and, therefore, it will not be more than four times the valuation of the land in question as per the ready reckoner, at the relevant time.

6. In the above facts, I find that the challenges as raised in the appeal are not required to be considered. The appeal is **dismissed**. In the circumstances, the parties to bear their own costs.

7. The amount deposited by the appellant, alongwith interest on it, be given to the respondent Nos.1 and 2 / claimants.

C.A.F. NO.707/2018

In view of disposal of appeal, this application for withdrawal of amount does not survive and is **disposed** accordingly. No costs.

JUDGE

Tambaskar.