

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

FIRST APPEAL NO.1357/2017

Executive Engineer, Bembla Canal Division (now Bembla Irrigation Division),
VIDC, Yavatmal, Tq. and Distt. Yavatmal

..Vs..

Vaibhav Prakashchand Gugaliya and others

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

Court's or Judge's orders

Ms Amruta Gupta, Adv. H/f. Shri P.B.Patil, Advocate for Appellant.
Shri K.S. Narwade, Advocate for respondent No.1.
Ms. Mrunal Barabde, A.G.P. for respondent Nos.2 and 3.

CORAM : Z.A. HAQ, J.

DATE : 24.4.2018.

CIVIL APPLICATION (CAF) NO.982 OF 2018

By this application, the respondent No.1 / claimant seeks permission to amend the cause title of the petition which was filed before the reference Court and further prays that the appellant / Executive Engineer be directed to amend the cause title of the memo of appeal accordingly.

According to the respondent No.1/ claimant, his surname is shown as "Gugalia", however, in the documents like Aadhar Card, PAN Card and in the bank account his surname is shown as "Jain". The respondent No.1 claimant seeks amendment accordingly.

Shri K.S. Narwade, advocate representing the respondent No.1 has pointed out that he is appearing for the respondent No.1 since July, 2017 and this application is filed by the same person who had signed Vakalatnama filed on his behalf in this appeal.

Considering the facts on record, the prayer made in the civil application is granted.

The Civil Application is **allowed**. No costs.

CIVIL APPLN.NO. 447/2018.

In view of the order passed on Civil Application No.980/2018, no orders are required on this application. It is disposed accordingly.

FIRST APPEAL NO.1357/2017

Considering the facts of the case, specially that the challenge in appeal is to the enhancement of compensation in respect of only 10 R land, the appeal is taken up for hearing.

By the notification issued under Section 4 of the Land Acquisition Act, 1894 (for short "Act of 1894") on 18th October, 2001 10 R land owned by respondent No.1 / claimant was acquired. The Land Acquisition Officer determined the compensation receivable by the claimant at the rate of Rs.70,983/- per hector alongwith statutory benefits. Being dissatisfied with the award passed 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 determined the amount of compensation receivable by the claimant for 10 R land at the rate of Rs.6,65,000/- per hector. Being aggrieved by this award, this appeal is filed.

Paragraph No.7 of the impugned award shows that the reference Court has relied on the award passed in Land Acquisition Case No.93/2007 by which

the compensation for the land acquired from the same village and for the same project was determined at the rate of Rs.9,50,000/- per hector. In L.A.C. No.93/2007, the land was acquired pursuant to the notification issued under Section 4 of the Act of 1894 in 2004. Applying the principle of reduction in escalation price at 10% per year, the reference Court worked out the compensation at the rate of Rs.6,65,000/- per hector. The learned Advocate for respondent No.1 / claimant has pointed out that the land which was subject matter of L.A.C. No.93/2007 and the land in the present case were from the same block No.127 and were acquired for the same project.

Be that as it may, considering the fact that the compensation is in respect of only 10 R land and the amount comes to around Rs.16,625/-, without delving into the further details, in my view, the award passed by the reference Court does not require any interference. It is clarified that this order is given in the facts of the present case considering that the extent of acquired land was only 10 R.

In view of the above, the appeal is **dismissed**. In the circumstances, the parties to bear their own costs.

The amount deposited by the appellant alongwith interest on it, be given to the respondent No.1 / claimant.

JUDGE