

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

CIVIL APPLICATION (CAO) NO.1540 OF 2018
AND
MISC. CIVIL APPLICATION ST. NO. 13395 OF 2018
IN
FIRST APPEAL ST. NO.1003 OF 2017

(DATTATRAYA NARAYAN BARDE...VS.. STATE OF MAHARASHTRA & OTH.)

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

Court's or Judge's orders

Shri R.J. Shinde, Advocate for Applicant/Appellant
Shri K.R.Lule, A.G.P. for Respondents.

CORAM : Z.A.HAQ, J.
DATED : SEPTEMBER 05, 2018.

CIVIL APPLN.NO. 1540/2018.

Accepting the explanation given in the application, delay of 68 days in filing the Application praying for review is condoned.

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

MISC. CIVIL APPLN.ST.NO.13395/2018.

The claimant has filed Miscellaneous Civil Application praying that the judgment delivered by this Court on 16th March, 2018 be reviewed and compensation be granted to the claimants @ Rs.65,000/- per hectare along with statutory benefits. It is submitted that the judgment delivered in the First Appeal No.91 of 1998 by which compensation @ Rs.65,000/- per hectare was determined for the land in that case has been accepted by the State

Government which is clear from the communication sent by the Superintendent (Legal) Law and Judiciary Department, Government of Maharashtra on 6th February, 2012. Advocate for the claimants has relied on the judgment given by the Hon'ble Supreme Court in the case of *Mahadev Vs. Asstt. Commissioner/Land Acquisition Officer*, reported in **(2002) 9 SCC 487** and has argued that this Court, while deciding the appeal under Section 54 of the Land Acquisition Act, 1894 should take into consideration the fact that the Government has accepted the judgment/ order/ award passed in other case/cases determining the compensation for acquisition of land comparable with the land of the claimant who is before the Court. It is prayed that the judgment be reviewed and the appeal be reheard and the amount of compensation @ Rs.65,000/- per hectare along with the statutory benefits be granted to the claimants.

The submissions made on behalf of the claimants cannot be accepted. The communication dated 6th February, 2012 sent by the Superintendent (Legal) Law and Judiciary Department, Nagpur only shows that the State Government had acquiesced in the judgment delivered in First Appeal No.91 of 1998. In any case the present claimant cannot take advantage of the judgment delivered in First Appeal No.91 of 1998 as the judgment in First Appeal No.91 of 1998 was obtained by the parties by suppressing relevant facts. In paragraph No.6 of the judgment given in First Appeal No. 1003 of 2017 it is recorded that the parties had not pointed out to the Court that the land for which compensation was granted @ Rs.65,000/- per hectare in First appeal No.32 of 1990 was an irrigated land and not dry-crop land and while deciding First Appeal No. 91 of 1998 this Court proceeded to

determine the compensation @ Rs.65,000/- per hectare for dry crop land. When this came to the notice of this Court while deciding the First Appeal No. 89 of 2008, by the judgment delivered on 17th November, 2017 this Court specifically recorded that the compensation for dry crop land should be @ Rs.43,000/- per hectare.

The points which are sought to be raised in the review application are already considered by this Court. It cannot be said that there is any error apparent on the face of the record which necessitates review of the judgment.

The Miscellaneous Civil Application is **dismissed**.
In the circumstances, the parties to bear their own costs.

JUDGE

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