

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

CIVIL APPLICATION (CAO) NO.1872 OF 2017
AND
MISC. CIVIL APPLICATION (ST) NO.19963 OF 2017
IN

FIRST APPEAL ST. NO. 15785 OF 2013 (RC NO. 295/15)
(M.I.D.C. THROUGH ITS C.E.O....VS.. HASHMAT PRABHUDAS BAKHTIYAR & OTH.)

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

Court's or Judge's orders

Shri Sharad Thakre, Adv. H/f. Shri M.M.Agnihotri, Advocate for Appellant.
Shri K.R.Lule, A.G.P. for Respondent No.2 & 3.

CORAM : Z.A.HAQ, J.

DATED : SEPTEMBER 07, 2018.

By order dated 11th March, 2014 the appeal filed by the appellant was dismissed against the respondent No.1/Claimant.

Shri Romil Jain, advocate has put in appearance for the respondent No.1.

Considering the facts of the case and accepting the explanation given in the applications, delay of 838 days in filing the Miscellaneous Civil Application praying for restoration of the appeal is condoned. The order directing dismissal of the appeal against the respondent No.1 is set aside and the first appeal is restored.

Civil Application and Miscellaneous Civil Application are **allowed** accordingly.

CIVIL APPLN.ST.NO.19966/2017.

In view of the above, the prayer made in Civil Application St. No.19966 of 2017 does not survive. The application is disposed accordingly.

CIVIL APPLICATION NO. 2555/2013.

Though the application is opposed, accepting the explanation given in the application, delay of 73 days in filing the appeal is condoned.

The Civil Application is **allowed**.

FIRST APPEAL ST. NO. 15785/2013.

Taken up for hearing.

The learned advocates for the appellant as well as respondent No.1-Claimant as also learned A.G.P. submit that the points which arise for consideration in the present appeal are covered by the judgment delivered by this Court in First Appeal No.486 of 2011 on 30th August, 2016. By the judgment delivered in First Appeal No.486 of 2011 this Court has maintained the award passed by the Reference Court in respect of the land which was acquired for the same project. It is not disputed that the land which is subject matter of the present appeal and the land which was subject matter of First Appeal No. 486 of 2011 were comparable. As far as compensation determined by the reference Court for pot-kharab land is concerned, I find that the appellant has not been able to point out any illegality or perversity in the findings recorded by the reference Court determining the

amount of compensation for which the claimant is entitled for pot-kharab land.

In view of the above, I see no reason to interfere with the impugned award. The appeal is **dismissed**. In the circumstances, the parties to bear their own costs.

The amount deposited by the appellant along with interest on it, if any, be given to the respondent No.1/ Claimant.

CIVIL APPLN.NO.1596/2016.

Though the amount is deposited, the application is pending. In view of disposal of the appeal, the application praying for permission to deposit the decretal amount does not survive, hence, it is **disposed**.

JUDGE