

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

CAF NO. 2055/2016
IN
FIRST APPEAL (ST.) NO. 23851/2015

EE, Washim
..VS..
Udaysing Gopal Ghatge & ors.

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

Court's or Judge's orders

Ms. U.A. Patil, Advocate for the applicant/appellant
Ms. A.R. Kulkarni, AGP for the non-applicant/respondent nos. 2 & 3

CORAM : Z.A.HAQ, J.
DATED : 10/09/2018

None appears for the non-applicant/respondent no. 1(claimant), though served.

The applicant/appellant (acquiring body) has filed this appeal to challenge the award passed by the Reference Court enhancing the amount of compensation receivable by the claimant. There is delay of 620 days in filing the appeal and therefore this application is filed praying that the delay in filing the appeal be condoned.

I am conscious that while considering the prayer for condoning the delay in filing the appeal, merits of the matter are not required to be examined however, as the claimant is not appearing and the delay is inordinate, I have examined the merits of the matter.

Pursuant to the notification issued under Section 4 of the Land Acquisition Act, 1894 (for short "the Act of 1894") on 23/04/1998, 1.87 hectare land owned by the claimant came to be acquired. The Land Acquisition Officer

determined the amount of compensation receivable by the claimant for the acquired land @ Rs. 40,400/- per hectare alongwith statutory benefits. Being dissatisfied with the amount of compensation, the claimant had requested for the 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 @ Rs. 1,50,000/- per hectare alongwith statutory benefits.

In para no. 9 of the impugned award, the Reference Court has referred to the award passed in L.A.C. No. 76/2006 on 12/01/2012 and the award passed in L.A.C. No. 101/2005 on 11/01/2012 by which the compensation for similar land was determined @ Rs. 1,50,000/- per hectare. The Reference Court has recorded that the lands which were the subject matter of L.A.C. No. 76/2006 and of L.A.C. No. 101/2005 were situated in the same vicinity as the land which is the subject matter of the present proceedings. The Reference Court has referred to a map filed on record vide list (Exh. 15) to record the finding that the lands in question were situated within the same vicinity.

Though the applicant/appellant contends that the lands which were the subject matter of L.A.C. No. 76/2006 and of L.A.C. No. 101/2005 were not comparable with the land which is the subject matter of the present proceedings, nothing has been pointed out to dislodge the findings recorded by the Reference Court in para no. 9 and that too relying on a map. The applicant/appellant has not even pointed out that the notifications issued under Section 4 of the Act of 1894 in the case of L.A.C. No. 76/2006 and of L.A.C. No. 101/2005 were issued on dates different than the notification issued under Section 4 of the Act of 1894 in the present case. The applicant/appellant has not been able to

point out as to whether the lands which were the subject matter of L.A.C. No. 76/2006 and of L.A.C. No. 101/2005 were acquired for some other project and not for the same project for the land which is the subject matter of the present proceedings came to be acquired.

Apart from the fact that inordinate delay of 620 days is not properly explained, I find that even the matter is not properly conducted.

In view of the above, I see no reason to show any indulgence and to condone the inordinate delay of 620 days in filing the appeal.

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

The amount of Rs. 5,62,788/- deposited by the applicant/appellant with the Registry of this Court, alongwith interest on it, if any, be given to the respondent no. 1 (claimant) as per the impugned award.

JUDGE

Ansari