

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.828 OF 2018
IN
FIRST APPEAL NO. 1750 OF 2014
WITH
CIVIL APPLICATION NO.1444 OF 2019
IN
FIRST APPEAL NO.1750 OF 2014.
WITH
CIVIL APPLICATION NO.1027 OF 2019**

The State of Maharashtra & anr.

Applicants.

Versus

Kiran Shantaram Dhanukar & ors.

Respondents.

Mr. A.S. Bajaj, Advocate for appellant No.1.

Mr. P.N. Kutti, A.G.P. for appellant No.2.

Mr. A.P. Bhandari, Advocate for respondent Nos.1 to 4.

**WITH
CIVIL APPLICATION NO.729 OF 2019
IN
FIRST APPEAL NO. 1750 OF 2014**

Kiran Shantaram Dhanukar & ors.

Applicants.

Versus

The State of Maharashtra & anr.

Respondents.

Mr. A.P. Bhandari, Advocate for the applicants.

Mr. P.N. Kutti, A.G.P. for respondent No.1.

Mr. A.S. Bajaj, Advocate for respondent No.2.

**CORAM : T.V. NALAWADE AND
SUNIL K.KOTWAL, JJ.**

Order reserved on : 8 February 2019.
Order pronounced on : 22 February 2019.

ORDER .

1. Civil Application No.828 of 2018 is filed by the appellants and Civil Application No.729 of 2019 is filed by respondents under Order XXXXI Rule 27 of the Code of Civil Procedure for permission to file documents as additional evidence in First Appeal No.1750 of 2014. Civil Application No.1444 of 2019 is also filed for permission to produce copies of possession receipts regarding acquired land, with a letter dated 22.07.1999 issued by City and Industrial Development Corporation to Special Land Acquisition Officer. Civil Application No.1027 of 2019 is filed for permission to produce village map of Waluj.

2. The appellants have sought permission to file certified copies of 12 sale deeds as additional evidence. However, after going through those sale deeds, it emerges that the land under those sale deeds is sold out for a consideration which is less than the rate awarded by Special Land Acquisition Officer to the claimants. Under Section 25 of the Land Acquisition Act, the

Court cannot grant compensation less than the compensation awarded by Land Acquisition Officer. Therefore, production of the copies of 12 sale deeds as sought by the appellants cannot be allowed. However, for ascertaining the exact location of the acquired land, the production of village map of village Tisgaon deserves to be allowed. In the result, Civil Application No.828 of 2018 is partly allowed and only production of village map is permitted. The Village Map is marked as Exh. R-1 in the appeal. Civil Application No.1027 of 2019 is disposed of as village map is already filed in Civil Application No.828 of 2018.

3. Civil Application No.729 of 2019 is filed by respondents/claimants for production of copies of six sale deeds from village Tisgaon. However, after going through those sale deeds, it emerges that all those sale deeds are in respect of the sale of small plots of village Tisgaon. Already two sale deeds of small plots i.e. Exhs.37 and 38 are available on record. The claimants have also filed third sale deed (Exh.39) of Gut No.183 admeasuring 81 R situated at village Tisgaon. This third sale deed is considered as comparable sale instance in view of its larger area and proximity with the acquired land. Therefore,

those six sale deeds proposed to be filed alongwith Civil Application No.729 of 2019 are not necessary for passing appropriate judgment in the appeal. Therefore, production of those sale deeds cannot be allowed. Accordingly, Civil Application No.729 of 2019 is rejected.

4. The appellants have also filed Civil Application No.1444 of 2019 for production of possession receipts of the acquired land. Similarly C.A. No.3087 of 2019 is filed for permissible to place possession receipt dt. 08.10.2001 on record of C.A. No.1444 of 2019. C.A. No.3087 of 2019 is allowed in terms of prayer clause 'B' and possession receipt dt. 08.10.2001 is kept with the record of C.A. No.1444 of 2019. The date of delivery of possession by the claimants to the Acquiring Body is material point for consideration while awarding interest on compensation amount. Therefore, Civil Application No.1444 of 2019 is allowed and possession receipts executed by claimants in favour of the Acquiring Body are taken on record. Learned Counsel for the claimants has admitted the signatures of claimants and execution of these possession receipts. Therefore, these possession receipts are marked as Exh. C-1 and C-2.

5. The Civil Applications are disposed of accordingly.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

vdd/