

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

First Appeal (ST) No.2503/2011

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

Court's or Judge's orders.

Mr. A. R. Patil, AGP for the Appellant
Mr. Nitesh Zimur I/b. A.R.S. Baxi for Respondent Nos.1 and 2.

CORAM : K.K.TATED.J.
DATED : JUNE 18, 2019

P.C.

1 Heard. Not on board. At the request of the learned AGP, the matter is taken up for final hearing.

2 By this First Appeal, the Appellant State of Maharashtra challenges the judgment and award dated 13.11.2007 passed by the Civil Judge, Senior Division Barshi in LAR No.783/2002.

3 The learned AGP submits that the SLAO issued Notification u/s.4 of the Land Acquisition Act, 1894 for acquiring the Respondent - claimants land for the purpose of Pimpalgaon Dale Medium Project. He submits that after following due process of law, the SLAO passed award

dated 23.05.2000 u/s.11 of the Land Acquisition Act, 1894 and awarded compensation to the Respondent-Claimant.

4 The learned AGP submits that being aggrieved by the said award, the Respondent-Claimant filed Reference u/s.18 of the said Act. He submits that the Reference Court awarded sum of Rs.75000/- per hector i.e. sum of Rs.14985/- additional compensation to the Respondent-Claimant in respect of the land admeasuring 54 Ares Gut No.338/.

5 The learned AGP submits that the Reference Court has failed to consider the sale instance on record. He submits that the Reference Court has awarded compensation in respect of the acquired land on higher side. He submits that in the interest of justice, this Hon'ble Court be pleased to set aside the impugned judgment and award passed by the Reference Court.

6 On the other hand, the learned counsel for Respondent Nos.1 and 2 has vehemently opposed the First Appeal. He submits that the Reference Court, after considering the previous judgments in LAR No.764, 768, 772 and 777 of 2002 at

Exh.30 held that the Respondent-Claimant is entitled to additional compensation of Rs.14985/- in respect of the acquired land. The learned counsel for the Respondent submits that in any case, the Reference Court has awarded meager amount to the claimant. He submits that it is very difficult for the Respondent to defend the meager claim. He submits that in the interest of justice, this Hon'ble Court be pleased to dismiss the appeal summarily at the stage of admission.

7 After considering the submissions made by the learned AGP as well as the learned counsel for the claimant and after perusing the impugned judgment and award, following issue arises for the consideration of this court:

“Whether the compensation awarded by Reference Court is on higher side?”

8 In the present proceedings the Appellant acquired, Respondent-Claimant's land admeasuring 54 R from Gut No.338 of Village Bavi Aaglave for the purpose of Pimpalgaon Dale Medium Project.

9 The Reference Court while deciding the compensation payable to the Respondent-Claimant mainly relied on the

previous judgments in LAR No.764, 768, 772 and 777 of 2002 at Exh.30. The Reference Court in paragraph 9 of the impugned judgment and award recorded that the DGP who appeared for the State in the matter, filed affidavit stating that they have decided to prefer an appeal against that order however, failed to make any statement that the appeal filed or at what stage.

10 Considering these facts and as the Trial Court has awarded compensation on the basis of those earlier judgments arising from the same area and enhanced compensation only to the extent of Rs.14935/-, I am of the opinion that the judgment and award passed by the Reference Court does not require any interference. Compensation awarded by the Reference Court is meager. Therefore, I answer the issue in the negative.

11 Hence, following order is passed:

- a. The First Appeal stands dismissed.
- b. No order as to costs.
- c. Pending Civil Application, if any, stands dismissed as infructuous.

(K.K.TATED, J.)