

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

FIRST APPEAL NO. 674 OF 2018

VIDC, thr. its Executive Engineer & anr.

VS.

Vitthal Kawaduji Tupat & others

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

Court's or Judge's

Shri. P. B. Patil, counsel for appellants.
Shri. R. D. Hajare, counsel for respondent No.1.
Shri. B. M. Lonare, counsel for respondents No.3 & 4.

CORAM : Manish Pitale J

DATED : 03.10.2019

Although this appeal is listed today for correction and addition of name of appellant No.2, in the paper book and the said correction has been carried out, it is pointed out by the learned counsel appearing for respondent No.1 that the present appeal is covered by judgment and order dated 19.12.2018 passed by this Court in First Appeal Stamp No.189/2018 with Cross Objection No.119/2018. It is pointed out that said judgment of this Court also concerned acquisition of open plot and constructed portion from village Pahur, Tah.Babhulgaon, Dist.Yavatmal for irrigation project as per the Notification dated 11.05.2000 issued under Section 4 of the Land Acquisition Act 1894, as in the present case because in the present case also the open land

and constructed portion was located in the very same village. It is pointed out that this Court held that the claimant would be entitled to compensation @Rs.750/- per square meter for open plot and quantum of compensation granted by the Reference Court for the constructed portion was maintained.

2. In the present case, the Reference Court granted compensation to the respondent No.1 @900/- per square meter for open plot and for the constructed portion compensation @Rs.1133/- per square meter was granted.

3. In view of submissions made on behalf of the rival parties, it become obvious that the present appeal has to be partly allowed to the extent that instead of compensation payable for the open plot of land to the respondent No.1 @Rs.900/- per square meter, the said respondent will have to be granted compensation @Rs.750/- per square meter.

4. Accordingly, the present appeal is partly allowed and it is held that the respondent No.1 is entitled to compensation for open plot of land @Rs.750/- per square meter and quantum of compensation granted for the constructed portion as granted by the Reference Court is maintained as it is.

5. It is informed that despite order passed by this Court granting permission to the respondent No.1 to withdraw 50% amount on furnishing solvent surety and 50% amount on filing usual undertaking, the respondent No.1 was not able to withdraw the amount deposited by the appellant in this Court.

6. Hence, in terms of the present order, the respondent No.1 is permitted to withdraw the amount of compensation found payable to him along with accrued interest and the balance amount shall be disbursed to the appellants along with accrued interest.

7. Appeal is disposed of.

JUDGE