

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAF) NO.4247 OF 2017
IN
FIRST APPEAL ST. NO.7311 OF 2017

VIDC Thr. The Executive Engineer, Bembla Project Division, Yavatmal and anr.

-vs-

Sulochana Narayan Jirapure and ors.

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

Court's or Judge's Orders.

Shri V. Dahat, Advocate for applicant/appellant.
Shri R. D. Hajare, Advocate for respondent Nos.1 to 5.
Shri M. A. Kadu, AGP for respondent Nos.6 and 7.

CORAM : A.S.CHANDURKAR, J.

DATE : January 22, 2019

1. Considering reasons mentioned in the application, the delay in filing the appeal stands condoned. Civil Application is disposed of.

First Appeal St. No.7311 of 2017

2. Notice on the appeal made returnable forthwith. Shri R. D. Hajare, learned counsel waives notice for respondent Nos.1 to 5. Shri M. A. Kadu, learned Assistant Government Pleader waives notice for respondent Nos.6 and 7.

3. Land admeasuring 80 sq. mt. along with construction of 77.59 sq. mt. situated at Mouja Pahu, Taluka Babhulgaon, District Yavatmal was the subject matter of acquisition pursuant to the Notification dated 11/05/2000 issued under Section 4 of the Land

Acquisition Act, 1894. The Land Acquisition Officer awarded compensation at the rate of Rs.900/- per sq. mt. for the open area and Rs.1367/- per sq. mt. for the constructed portion. The acquiring body has challenged the aforesaid decision.

4. Shri V. Dahat, learned counsel for the appellant submits that in appeals arising out of similar Notification and from the same village, this Court has awarded an amount of Rs. 750/- per sq. mt. for the open land and has maintained the amount of compensation which was granted for the constructed area. Shri R. D. Hajare, learned counsel for the claimants does not dispute the adjudication in First Appeal St. No.189 of 2018 (*Vidarbha Irrigation Development Corporation Thr. Executive Engineer and anr. vs. Vasant Nanaji Patre and ors.*) decided on 19/12/2018 . He however submits that the earlier decisions of this Court adjudicating the rate of compensation have been challenged before the Honourable Supreme Court.

5. Considering the fact that for lands acquired under similar Notification and arising from the same village this Court has granted an amount of Rs.750/- per sq. mt. for the open area and has maintained the amount of compensation for the constructed portion, same course would have to be followed in this appeal.

6. Hence in view of the reasons assigned in the Judgment dated 19/12/2018 in F.A. St.No.189 of 2018 the following order is

passed:

- (i) The judgment dated 18/12/2014 in L.A.C. No.255/2010 is partly modified. It is held that for the open area admeasuring 80 sq. mt an amount of Rs.750/- per sq. met. is granted as compensation.
- (ii) The amount as granted by the Reference court for the constructed portion is maintained.
- (iii) The claimants are at liberty to withdraw the amount of compensation as deposited in the light of aforesaid adjudication. The balance amount if any be returned to the appellant.
- (iv) Needless to state that this adjudication would be subject to any modification in the rate of compensation by the Hon'ble Apex Court in the appeals decided earlier.
- (v) The First Appeal is allowed in aforesaid terms with no order as to costs. Pending Civil Application is also disposed of.

JUDGE