

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

FIRST APPEAL NO.1667 OF 2019
(The Executive Engineer, Bembla Project, Yavatmal .vs. Sukhdeo
Kisan Chandankhede (D) and Ors.)

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

Court's or Judge's Orders

Mr.M.A.Kadu, Advocate for the appellant.
Mrs.A.R.Kulkarni, A.G.P. for respondent nos. 2 and 3.

CORAM : N. W. SAMBRE, J.

DATE : 1.10.2019.

Heard.

Learned Counsel for the appellant submits that order dt.24.9.2019 condoning delay and admitting the appeal needs to be re-called as respondent no.1/land owner was not served. The prayer, as such, is allowed. The order dt.24.9.2019 is re-called.

In the case in hand, award of compensation is against acquisition of land for submergence of Bembla Irrigation project for which Section 4 notification was issued on 24.7.1999

The Land Acquisition Officer has granted compensation of Rs.75,000/- per sq.metre for open plot and advalorem compensation of Rs.1,07,444/- for

2

constructed area.

In Section 18 reference, compensation is @ Rs.550/- per sq.metre for open plot whereas Rs.21,000/- per sq.metre for built up area.

Mr.M.A.Kadu, learned Counsel for the appellant/Acquiring Body would urge that enhanced compensation is at exorbitant rate; that too, without basis of documentary evidence.

Mrs.A.R.Kulkarni, learned Assistant Government Pleader assisted the Court in scanning the evidence as discussed in the Judgment delivered by the Reference Court.

Oral and documentary evidence produced in support of claim for enhancement are - at Exh.40, claimant has examined himself, notices issued under Sections 4, 9 and section 12 (Exh. Nos. 44 to 46), tax receipt (Exh.47), receipt issued by Department of Electricity (Exh.48), certified copy of Judgment, dt.18.9.1992 (Exh.49), sale deed dt.25.3.1999 of Pahur (Exh.50) and certified copy of Judgment delivered in L.A.C. No.496 of 2006 (Exh.51).

The aforesaid entire evidence is scanned, particularly in the backdrop of expert evidence of Sunil Chendkapure. The Reference Court, after analysing the

3

evidence, has rejected the evidence of Expert as not reliable and proceeded to assess grant of enhanced compensation based on Judgment delivered in L.A.C.No.496 of 2006 produced at Exh.51.

Relying on the said Judgment, wherein enhancement at same rate is granted, the Tribunal has allowed the claim for enhancement.

Since the enhancement is based on earlier Judgment in the said L.A.C., in my opinion, considering the date of Section 4 notification, enhancement order appears to be reasonable. No interference is warranted. The appeal fails. Hence, the same is dismissed.

JUDGE

jaiswal