

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

FIRST APPEAL NO. 211 OF 2016

VIDC, thr. Its Executive Engineer, Bembla Project, Division, Yavatmal
vs.
Sudhakar Punjaram Chauke and others.

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

Court's or Judge's

Shri. A. B. Patil, counsel for the appellant
Shri. A. B. Nakshane for respondent No.1.

CORAM : Manish Pitale J

DATED : 30.09.2019

The appellant has challenged judgment and order dated 09.02.2010 passed by the Court of Civil Judge, Senior Division, Yavatmal (Reference Court), whereby enhanced compensation was granted to the respondent No.1 for acquisition of his open plot and constructed portion from village Pahur, Tah.Babhulgaon, Dist.Yavatmal for the Bembla Project. The Reference Court granted compensation @Rs.700/- per sq.mtr. for the open plot and @Rs.1450/- per sq.mtr. for constructed area. The respondent No.1 filed a cross objection seeking further enhancement.

2. At the outset, the learned counsel appearing for respondent No.1 invited attention of

this Court to judgment and order dated 28.03.2019 passed by this Court in **First Appeal No.424/2019 [Executive Engineer (V.I.D.C.) Bembla Project Division, Yavatmal vs. Hukumchand Uttamchand Kotecha and others]** pertaining to question of grant of compensation to a claimant for open plot and constructed area from the same village pursuant to the same notification dated 11.05.2000 issued under Section 4 of the Land Acquisition Act, 1894. It was submitted that the present case stands covered by the aforesaid judgment and order passed by this Court.

3. The learned counsel appearing for the appellant and the State authorities have not disputed the aforesaid position.

4. Since in the said relied upon judgment and order passed by this Court, Rs.750/- per sq.mtr. has been granted for open plot and the quantum of compensation granted by the Reference Court, for the constructed portion has been maintained, the same relief ought to be granted to the respondent No.1 in the present case.

5. In view of the above, the appeal filed by the acquiring body is dismissed, while the cross objection is partly allowed and it is directed that the appellant shall pay enhanced compensation to respondent No.1 for open plot @Rs.750/- per sq.mtr.

while the quantum of compensation granted for the constructed portion as granted by the Reference Court stands confirmed.

6. Consequently, the respondent No.1 is permitted to withdraw the amount of compensation deposited by the appellant before the Reference Court along with accrued interest.

7. The appellant is granted time of six months to deposit the enhanced amount of compensation as granted by this Court in the present order, before the Reference Court. The respondent No.1 is permitted to withdraw the same immediately upon its deposit.

8. The appeal and cross objection stand disposed of.

JUDGE

KOLHE