

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

C.A.F.No.1478 of 2019 in F.A.St.No.20570 of 2018
(Executive Engineer, V.I.D.C., Yavatmal .vs. Ku.Aarti Govindrao
Kubade and Ors.)

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

Court's or Judge's Orders

*Ms I.P.Khisti, Advocate for the
appellant/applicant.
Ms H.H.Jaipurkar, A.G.P. for respondent nos. 2 and
3.*

CORAM : N. W. SAMBRE, J.

DATE : 1.10.2019.

Heard.

The Executive Engineer of the Canal Division, Yavatmal Mr.Kondawar is personally present in the Court and has expressed his regret for not complying with earlier orders of deposit of amount. He submits that delay in compliance is based on communication gap and technical errors. The explanation tendered is accepted. His presence is discharged.

There is delay of 270 days caused in preferring the present appeal.

Heard Ms H.N.Jaipurkar, learned Assistant Government Pleader for respondent nos. 2 and 3. For the reasons disclosed in the application, delay is condoned. Application is allowed.

2First Appeal St.No.20570 of 2018

Heard.

Respondent's land bearing Gat No.18/3 located at village Mankapur to the extent of 0.27 HR came to be acquired by the appellant pursuant to Section 4 notification, dt.5.4.2007.

The Land Acquisition Officer granted compensation of Rs.31,485/- ,of which enhancement sought before the Reference Court has resulted into order enhancing compensation @ Rs.4,78,500/- per hectare.

Learned Counsel for the appellant would urge that enhancement is based on the Judgment in Land Reference No.308 of 2012, decided on 10.11.2016 which is already subject matter of challenge in this Court. Further submission is enhancement in Land Reference No.308 of 2012 is based on the Judgment delivered on L.A.C. No.196 of 2009 wherein compensation of Rs.2,00,000/- per hectare was granted for the land located in the very same village. As such, according to her, grant of enhanced compensation is at much exorbitant rate. She would then claim that there is an iota of evidence brought by the Claimant to substantiate the claim for enhanced compensation.

With the assistance of respective learned Counsel, I have perused the Judgment delivered in L.A.C.No.308 of 2012 wherein enhancement granted @ Rs.2,00,000/- per hectare in L.A.C. No.196 of 2009 was analysed. The Reference Court in said L.A.C.No.196 of 2009 was sensitive to the fact that

3

the land therein, which was subject matter of acquisition, is located inside the National Highway.

As far as the land of present appellant and the one which is dealt with in L.A.C.No.308 of 2012 are concerned, the same are located abutting National Highway as village Mankapur is located on National Highway.

Considering the fact that the land which was subject matter in L.A.C.No.196 of 2009 is located in little interior as compared to the lands in present case which are abutting National Highway, compensation awarded in L.A.C.No.196 of 2009 @ Rs.2,00,000/- per hectare is found to be base for award of enhanced compensation. The Reference Court, having regard to the location of land in the case in hand which is abutting National Highway, has granted increase of 50 % and further noted that in L.A.C. No.308 of 2012 enhanced compensation is worked out at Rs.4,78, 500/- per hectare.

Enhanced compensation in the case in hand is based on the justifiable reasons and appears to be quite reasonable having regard to the date of Section 4 notification. That being so, no case for interference is made out. The appeal fails. The same is dismissed.

The entire amount of compensation deposited in this Court be relegated back to the Reference Court, who shall issue intimation to the land owner about withdrawal of the same.

Order

4

110caf1478.19