

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.466 OF 2006

1. The State of Maharashtra
Through
The Collector, Nanded.
 2. The Special Land Acquisition Officer,
B & C Collectorate, Nanded.
 3. The District Welfare Officer,
Nanded, Dist. Nanded
- ... Appellants

Versus

1. Kishanrao S/o Sayanna Nagurwar
Age: 28 years, Occu.: Agriculture
and Service in S.T.,
R/o. Biloli, Dist. Nanded
 2. The Social Welfare Officer,
Z.P., Nanded
- ... Respondents

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Mr. A. M. Phule, AGP for appellants-State.
Mr. P. R. Katneshwarkar, Advocate for respondent No.1.
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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 31-07-2020

ORAL JUDGMENT :

. Heard learned AGP Mr. A. M. Phule for appellants-State and learned
Advocate Mr. P. R. Katneshwarkar for respondent No.1 – original claimant.

2. Present appeal is arising out of the judgment and order dated 14-10-2005 in L.A.R. No.164 of 2002 passed by learned Additional District Judge, Biloli, Dist. Nanded. Land Survey No.124/B-1 and 124/B-2 admeasuring 60 R situated at Biloli, Dist. Nanded belonging to the claimant was acquired for the construction of Dr. Babasaheb Ambedkar Backward Class Boys Hostel. Notification under Section 4 of the Land Acquisition Act came to be issued on 11-11-1999 and award under Section 11 of the said act has been passed by Special Land Acquisition Officer on 28-03-2000. Special Land Acquisition Officer has allowed compensation at the rate of Rs.1,62,000/- per Hectare i.e. Rs.1,620/- per R. However, being aggrieved by the said compensation, present respondent No.1 had approached reference Court under Section 18 of the Land Acquisition Act for enhancement in compensation and claimed compensation at the rate of Rs.5,940/- per square meter i.e. Rs.10,69,000/- for the acquired land.

3. After evidence led by the claimant, the reference Court granted compensation at the rate of Rs.10/- per square feet. The decretal amount was to the tune of Rs.16,84,142/-.

4. It has been submitted by learned AGP that a letter was received from the Commissioner, Social Welfare Department, Government of Maharashtra stating that under the orders of this Court, entire decretal amount has been deposited in this Court and out of that, 50% of the amount has been withdrawn by respondent

No.1. Respondent No.1 had put a proposal that if he is allowed to withdraw rest of the 50% amount, he is ready to give possession of the land. The department is of the opinion that the said land is suitable for erecting hostel and on condition that if he withdraws the matter from this Court and gives possession, then the Government is ready. The condition may be put that only after he gives possession, rest of the 50% amount deposited in this Court be allowed to be withdrawn by him. Such letter was given on 05-09-2019 and again on 28-07-2020. Assistant Commissioner, Social Welfare Department, Nanded has also given similar letter. In view of these letters, the first appeal may be disposed of with directions.

5. Learned Advocate Mr. P. R. Katneshwarkar representing the original claimant submitted that his client is ready to hand over the possession of the land. The only fact is that as the appeal is filed by the Government, under such circumstance, respondent No.1 cannot withdraw the matter. He made a statement that his client is ready to hand over the possession. He also submitted that some interest part has been withdrawn by his client. Now, whatever remaining amount is there, he be allowed to withdraw the same with accrued interest.

6. It appears that though the facts of the case disclosed that the possession was handed over on 01-08-2000 by the original claimant to the Government, yet, it appears that the possession is still with the claimant.

Government still feels that the said land is suitable for the purpose for which it was acquired. Under such circumstance, when the Government is ready to take possession of the land by giving rest of the decretal amount to the original claimant and original claimant is also ready to accept the said term, then the appeal deserves to be disposed of with the said understanding. Hence, the following order :-

ORDER

1. Appeal stands disposed of.
2. Original claimant to hand over possession of the acquired land to the Government within a period of two months from today and thereafter, he is allowed to withdraw rest of the amount pending with this Court together with accrued interest.

[SMT. VIBHA KANKANWADI, J.]

SCM