

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

Civil Application [CAF] No.17 of 2021
in
First Appeal No.221 of 2018

Dhanraj s/o Maruti Lanjewar

vs.

Special Land Acquisition Officer (MIW), Bhandara & others

=====

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

=====

Court's or Judge's Orders

Shri S.V. Bhutada, Advocate with Shri Y.J. Maheshwari, Advocate for the Appellant.
Shri M.A. Kadu, A.G.P. for Respondent No.1.
Ms. Sakshi Agrawal, Advocate h/f Mrs. Sarika Bhure, Advocate for Respondent Nos.4 to 6 & 8 to 10.
Shri B.M. Kharkate, Advocate for Respondent No.7.

CORAM : S.M. MODAK, J.
DATE : 6th JANUARY, 2021.

Heard learned Advocate Shri Bhutada for the appellant, learned Advocate Ms. Agrawal for respondent Nos.4 to 6 & 8 to 10, learned Advocate Shri Kharkate for respondent No.7 and learned A.G.P. Shri Kadu for respondent No.1-State.

02] Perused the joint application for recording of compromise filed on behalf of the appellant/original non-applicant No.1 and by respondent Nos.4, 5 & 6/ original non-applicant Nos.4, 5 & 6. Copy of the application is also given to the learned Advocate for respondent No.7.

03] It is submitted that the share allotted to present respondent No.7 - Deokabai Sakure is not going to be affected by this compromise. There is

also a submission that this compromise will not adversely affect the shares allotted to the non-applicants other than the signatories to the compromise application.

04] The trial Court as per the impugned judgment, dated 02/12/2017 was pleased to direct to disburse the amount of compensation to the non-applicants therein. The proceedings were initiated as per the provisions of Sections 30 & 31(2) of the Land Acquisition Act at the instance of Special Land Acquisition Officer. After enquiry, the impugned judgment came to be passed. Amongst the non-applicants therein, the original non-applicant No.1 on the one hand and original non-applicant Nos.4, 5 & 6 on the other hand, have entered into a compromise. Non-applicant No.1-Dhanraj therein was held entitled to receive 42/270 share in the compensation. Whereas, non-applicant Nos.4, 5 & 6 therein were held entitled to receive 12/270 share each in the compensation. Now, as per the compromise, non-applicant Nos.4, 5 & 6 have decided to relinquish their respective shares in favour of non-applicant No.1-Dhanraj. The application for recording of compromise was affirmed by the signatories i.e. non-applicant Nos.1, 4, 5 & 6 therein before the Notary Public.

05] Non-applicant No.1 - Dhanraj, the present appellant was aggrieved by the impugned judgment, because his contention based on the gift-deed was not accepted by the trial Court. It is not clear about deposit of the exact amount and its withdrawal, if any,

and by which non-applicant. So, the issue is left open for decision by the executing Court. In view of this settlement, the relevant portion of the impugned judgment needs to be modified. Hence, the following directions :

- i. Clause 2(c) of the impugned judgment, dated 02/12/2017 be deleted and instead the following portion be added :

“Non-applicant No.1 - Dhanraj is entitled to receive 12/270 share each (which was allotted to non-applicant Nos.4, 5 & 6) in addition to his original share of 42/270.”

- ii. The executing Court to act accordingly and to disburse the amount to the concerned non-applicants as per its procedure.
- iii. Refund of Court Fees be granted to the appellant as per rules.
- iv. The application is disposed of in the light of above directions.
- v. In view of disposal of the civil application, First Appeal No.221/2018 is also disposed of as infructuous.

JUDGE

**sandesh*