

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

FIRST APPEAL NO. 967 OF 2014

APPLICANT:
APPELLANT
(On R.A.)

Govindrao Laxmanrao Mehatre,
Aged about 64 years, Occ.: Agriculturist,
Through its Power of Attorney Holder
Smt. Seema W/o Mehatre,
Aged about 38 years, Occ.: Advocate,
R/o Babhulgaon Road, Distt. Yavatmal

... Versus ...

NON-APPLICANTS:
RESPONDENTS
(On R.A.)

1. The State of Maharashtra, through
the Collector, Yavatmal.
2. Sub-Divisional Officer & Land Acquisition
Officer, Bembla Project, Yavatmal.
3. The Executive Engineer,
Bembla Project Yavatmal.

Mrs. S.K. Paunikar, Advocate for the Appellant.
Ms. T.H. Udeshi, A.G.P. for Respondent Nos.1 and 2.
Shri M.A. Kadu, Advocate for Respondent No.3.

CORAM : S.M. MODAK, J.
DATE OF JUDGMENT : 05/01/2021

ORAL JUDGMENT:-

Heard learned Advocate Mrs. S.K. Paunikar for the appellant,
learned A.G.P. Ms. T.H. Udeshi for respondent Nos.1 and 2 and learned

Advocate Shri M.A. Kadu for respondent No.3.

02] Though the matter is fixed for filing of private paper-book, instead of filing the same, the appellant had chosen to take a chance for final disposal of this appeal on the basis of the observations of this Court in disposed of First Appeal No.224/2014. In that appeal, this Court has modified the judgment of the Reference Court. The compensation was fixed at the rate of Rs.1,20,000/- per hectare. It was decided on the basis of disposal of the earlier First Appeal No.1035/2007.

03] In this matter, the Reference Court has quantified the compensation of Rs.2,29,000/- in lump sum. The area of the land acquired was 3 hectares 62 Ares situated at Mauza Bhatmarg, Tq. Babhulgaon, District Yavatmal. The appellant before the Reference Court has sought for fixation of the compensation at the rate of Rs.2,00,000/- per hectare. Instead of accepting that, the Reference Court quantified it as mentioned above for the entire area.

04] Now, the appellant wants a decision from this Court on the basis of the decision in First Appeal No.224/2014. Though there is a consensus amongst both the sides about commonness in between location of the land at Village Bhatmarg, the same Section 4 notification on 17th December, 1998 and the nature of the land being dry crop land, it is submitted on behalf of

the respondents that the appellant cannot be awarded interest for the entire period.

05] It is contended on behalf of the appellant that though this Court has observed about disentitlement of the interest while passing the order dated 30th July, 2014, the interest may not be waived for a further period.

06] Learned Advocate Shri M.A. Kadu brought to my notice several directions and extension of the time granted for filing private paper-book. Whereas, on behalf of the claimant it is submitted that though the appellant was willing to file private paper-book, it could not be filed because the certified copies could not be obtained from the Reference Court.

07] In the synopsis, the appellant has mentioned the date of Section 4 notification as 24th April, 1998, whereas in the disposed of appeal mentioned as 17th December, 1998. So, it is not common. It is true that in both the matters, the land is acquired for Bembla Project. It is also true that in both these matters the award date is same i.e. 16th June, 2001. It is also true that in the present appeal, the land was dry crop land. So, I think that the appellant can be given benefit of the observations in disposed of First Appeal No.224/2014. So, I am inclined to fix the rate at the rate of Rs.1,20,000/- per hectare.

ENTITLEMENT INTEREST

08] It is true that the appellant is certainly not entitled for interest for the period condoned as observed by this Court on 30th July, 2014. It is for the period from 16th September, 2005 till 30th July, 2014. It is also true that there are several directions given by this Court on 11th February, 2015, on 28th July, 2016, on 7th October, 2016, on 10 January, 2017, on 12th February, 2018, on 22nd June, 2018, on 11th September, 2018, on 27th June, 2019 and lastly on 15th November, 2019. It is also true that appeal was restored as per the order dated 7th December, 2020.

09] It is really surprising as to how the paper-book could not be filed for all these period due to non-obtaining the certified copy from the Reference Court. There is a reason to believe that there is a lack of persuasion in obtaining the certified copy. The first direction to file private paper-book was given on 11th February, 2015. Period of six months expired in August 2015. So, for all these period, the appellant certainly not entitled to claim interest. But I am inclined to accept the request for not waiving the interest at least for COVID-19 period i.e. from March, 2020 till today. It is true that during this period, there was a lockdown and everything has come to standstill. Hence the following order is passed.

ORDER

- i. The appeal is **allowed**.

- ii. The award of the Reference Court is modified and the appellant is held entitled to get compensation at the rate of Rs.1,20,000/- (Rupees One Lakh Twenty Thousand Only) per hectare along with all statutory benefits.
- iii. The amount be calculated considering the area of the land.
- iv. The appellant will not be entitled for interest from 16th September, 2005 up to 30th July, 2014 and from September, 2015 up to February, 2020. Rest of the order of the Reference Court will stand as it is.
- v. The respondents are directed to deposit the compensation as per new calculation within a period of four months before the Reference Court and then the Reference Court to disburse the amount to the appellant.
- vi. The appeal is disposed of in above terms.

(S.M. Modak, J.)

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