

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

FIRST APPEAL NO.1256 OF 2017

APPELLANTS: 1. Executive Engineer,
Ori. Respondents (On R.A.) Public Works Department No.2, Nagpur.

2. State of Maharashtra,
Through Collector, Nagpur.

3. Special Land Acquisition Officer General,
Nagpur.

... Versus ...

RESPONDENT: Shri Satish S/o Nandkishor Rathi
Ori. Claimant (On R.A.) Aged About 40 years, Occupation : Business,
R/o Near State Bank, Tar Bazar, Katol,
District : Nagpur.

Shri M.A. Kadu, AGP for the Appellants.
Shri C.R. Najbile, Advocate for the Respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE OF JUDGMENT : 26th FEBRUARY, 2021

ORAL JUDGMENT:-

The Appellants – Acquiring Body has filed this appeal under Section 54 of the Land Acquisition Act, 1894, challenging the judgment and award dated 11/03/2015 passed by the Reference Court in L.A.C. No.409/2011.

02] The land of the Respondent, admeasuring 0.035 HR. from Survey No.275 village Katol, was acquired by the State for construction of outer road i.e. State Highway Ring Road. The Notification under Section 4 was published on 22/06/2006 and the award under Section 11 was passed on 15/10/2008. The Land Acquisition Officer had awarded compensation at the rate of Rs.6,00,000/- per HR., which was enhanced by the Reference Court to Rs.100/- per sq. feet. This judgment and award is under challenge in this appeal.

03] Shri M.A. Kadu, learned AGP has submitted that by judgment dated 07/10/2020 in First Appeal No.311/2017, the Division Bench of this Court has confirmed the rate awarded by the Reference Court. The land, which was the subject matter of the First Appeal, was also acquired for the same purpose under the same notification. It is also not in dispute that the nature of the subject land is similar to the land which was the subject matter of First Appeal No.311/2017. Hence, for the reasons stated in the said judgment, the challenge to the judgment and award fails. The only modification which is required to be made in the impugned judgment is as regards the area of the acquired land, which in Clause 2 of the operative part of the impugned judgment is recorded as 3850 sq. feet. The area of the acquired land is 0.035 HR. which is equivalent to 3767 sq. feet and not 3850 sq. feet, as it has been recorded by the Reference Court. The impugned judgment and award to that extent stands modified. Subject to the said modification, the

appeal stands dismissed.

04] The Respondent has already withdrawn 50% of the compensation and is entitled to withdraw the balance 50% of the compensation deposited by the Appellants – Acquiring Body as per the modified award.

(SMT. ANUJA PRABHUDESSAI, J.)

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