

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

FIRST APPEAL NO.546 OF 2004 WITH
CIVIL APPLICATION NO.2895 OF 2003

THE REGIONAL OFFICER, MIDC, LATUR
VERSUS
GANGADHAR IRANNA CHAMELE AND ORS

Mr G.S. Khaire, Advocate h/f Mr S.S. Dande, Advocate for appellant
Mr D.M.Pingale, Advocate for respondents No.1A to 1E and 2
Mr S.N. Morampalle, A.G.P. for respondents No.3 and 4

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 25th April, 2022

PER COURT :

1. Not on board. Taken on board at the request of Mr D.M. Pingale, learned Advocate for respondents no.1A to 1E and 2. He pointed out that as per order passed by this Court on 18.4.2022, this appeal was to be listed today, however, the office has not listed the appeal on today's board. This fact is verified and found force in the submission of Mr Pingale, learned Advocate for original claimants. Accordingly, matter is taken up for final disposal with the consent of both the sides.

2. This appeal is directed against the impugned judgment and award passed in L.A.R.No.30/1998 dated 19.3.2002. The land of the respondents/claimants came to be acquired for the purpose of M.I.D.C. center at Khanapur. The S.L.A.O. was pleased to award compensation of acquired land @ of Rs.365/- per R i.e. Rs.36,500/- per hectare. Feeling dissatisfied by the compensation determined by the S.L.A.O., the original claimants preferred reference under Section 18 of the Land Acquisition Act. The reference Court, after considering the rival pleadings of the parties,

evidence on record was pleased to enhance the market price at Rs.3,200/- per R. (Rs.3,20,000/- per hectare) with statutory benefits available under the Act.

3. Being dissatisfied by the amount of compensation determined by the reference Court, the appellant/MIDC has preferred this appeal on various grounds.

4. Heard Mr G.S. Khaire holding for Mr S.S. Dande, learned Advocate for appellant, Mr D.M. Pingale, learned Advocate for respondents no.1A to 1E and 2/original claimants and Mr S.N. Morampalle, learned A.G.P. for respondents No. 3 and 4.

5. Mr Pingale, learned Advocate for respondents/original claimants seeks leave to place on record copy of order passed by the Division Bench of this Court dated 14.10.2003 in F.A.No.285 of 2003 with connected matters and copy of order dated 13.6.2007 passed in F.A.No.184 of 2007. Leave granted. The said orders are taken on record and marked as "X" for identification collectively. He submitted that the Division Bench of this Court was pleased to reduce the market price of the acquired land to Rs.2,600/- per R. Feeling aggrieved thereby, the original claimants had preferred S.L.P. before the Honourable Supreme Court. However, the S.L.P. came to be dismissed and thereby the market price fixed by the Division Bench of this Court in above referred two appeals attained finality. He submitted that this appeal is covered by above said judgment, which is arising out of same project and same notification. Accordingly, this appeal may be disposed of.

6. Mr G.S. Khaire holding for Mr S.S. Dande, learned Advocate for appellant/M.I.D.C. has conceded the abovesaid position pointed out by Mr Pingale, learned Advocate for original claimants. He submitted that in view of earlier order passed by the Division Bench of this Court (supra), this appeal can be disposed of. Mr S.N. Morampalle, learned A.G.P. for respondents no.3 and 4 also made similar submissions.

7. Having regard to the submissions of Mr Pingale, learned Advocate for original claimants, Mr G.S. Khaire holding for Mr S.S. Dande, learned Advocate for appellant and Mr S.N. Morampalle, learned A.G.P. for respondents no.3 and 4/State, I have carefully gone through the decision rendered by the Division Bench of this Court in F.A.No.184 of 2007 dated 13.6.2007 and F.A.No.285 of 2003 dated 14.10.2003. It is undisputed position that this appeal is arising out of same project and same notification and covered by the abovesaid two decisions rendered by the Division Bench of this Court. On going through the above referred two decisions of Division Bench of this Court, it is revealed that the Division Bench of this Court was pleased to determine the market value of the acquired land at Rs.2,600/- per R. That rate has reached finality in view of disposal of S.L.P. As such, there is no need to touch other aspects of the matter. By taking the same recourse, this appeal can be allowed.

ORDER

- (i) The First Appeal is allowed.
- (ii) The impugned judgment and award passed in L.A.R.No.30 of 1998 by the reference Court/C.J.S.D. Biloli dated 19.3.2002 stands modified as under

"The original claimants shall be entitled to get compensation @ Rs.2,600/- per R along with statutory benefits available under the Land Acquisition Act."

- (iii) The award be modified accordingly to that extent.
- (iv) The appellant/M.I.D.C. shall deposit the amount of compensation along with statutory benefits under the Act in this Court within three months from today without fail. If the appellant/M.I.D.C. failed to deposit the amount of compensation, then amount of compensation shall carry interest of 9% per annum till its full realisation.
- (v) The First Appeal is accordingly disposed of.
- (vi) In view of disposal of First Appeal, Civil Application No.2895 of 2003 also stands disposed of.

(SHRIKANT D. KULKARNI, J.)

vvr