

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1958 OF 2018
WITH FIRST APPEAL NO. 2485 OF 2016

SHASHIKALA BAPURAO MANWATKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. D.M. Kakade in both F.A. - Advocate for Appellant
Mr. A.B. Chate in both F.A. - AGP for Respondent Nos.1 & 2
Mr. S.P. Sonpawale in F.A. No. 1958/2018 - Advocate for
Respondent No.3
Mr. S.G. Bhalerao in F.A. No. 2485/2016 - Advocate for
Respondent No. 2

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CORAM : S.G. DIGE, J.
DATE : 19th August, 2022

ORDER :

1. Present appeals are preferred by the original claimants seeking enhancement of compensation awarded in respective references by the Court of Civil Judge, Senior Division, Jalna (for short 'the Reference Court').

2. These appeals are remitted by the Hon'ble

Apex Court vide order dated 11th September, 2018 to this Court to limited extent to deal with further enhancement, if any, with the appeals arising out of L.A.R. No.405/2002, hence I am considering these appeals for the limited extent of further enhancement.

3. The lands, which are subject matters of the present appeals were acquired for Nimna Dudhana Project under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act'). The award is passed on 25.11.1999 by the Special Land Acquisition Officer (for short 'the S.L.A.O.'). The S.L.A.O. has given compensation at the rate of Rs.848/- & Rs.493/- per Are to the lands acquired. Aggrieved by that compensation, appellants filed Claim Petitions before the Reference Court. The Reference Court has enhanced the compensation at the rate of Rs.1800/- and Rs.1200/- per Are for dry land and at the rate of Rs.900/- and Rs.600/- per Are for Potkharaba land. Against the said judgment

and order present appeals for enhancement of amount.

4. Learned Counsel for appellants submits that, connected group of First Appeals were filed for enhancement of amount of compensation before this Court. Those around one hundred (100) appeals are settled before the Lok Adalat and the rate at Rs.2400/- per Are is given for dry land. Appellants' lands are also dry lands.

5. Learned Counsel further submits that, this Court (CORAM : S.D. Kulkarni, J.) by order dated 4th April, 2022 has given compensation at the rate of Rs.2500/- per Are for dry land hence, appellants are entitle for compensation at the rate of Rs.2500/- per Are for dry land. The land in First Appeal No.1125/2021 is from village Satona and land in present two appeals are from village Rani-Wahegaon and Deola. According to the observations of the Hon'ble Apex Court, these three villages are admittedly adjacent to each other.

6. Learned Counsel for respondent Mr. Sonpawale and Mr. Bhalerao admitted the fact that, some matters from the same acquisition are settled before the Lok Adalat but both the learned Counsel submit that, appellants are not entitle for the compensation at the rate of Rs.2500/- per Are as per judgment of this Court in First Appeal No.1125 of 2021. As in the said judgment, land referred is not from the village Rani Wahegaon and Deola and it is from the village Satona which is just adjacent to village Rani Wahegaon and Deola.

7. I have heard all learned Counsel. Perused judgment and order passed by the Tribunal.

8. Admittedly, the lands of the appellants are situated at village Rani Wahegaon and village Deola, Tq. Partur, Dist. Jalna. The lands are acquired for the same project and near about at the same period.

9. In connected group of appeals, the matters are

settled before Lok Adalat and compensation at the rate of Rs.2400/- per Are is given for dry lands and said rate is accepted by the acquiring body. Hence, I am considering the rate accepted by the acquiring body before the Lok Adalat and appellants are entitle for the same rate. Though appellants are claiming the compensation at the rate of 2500/- per Are, in my view, land referred in First Appeal No. 1125 of 2021 is not from same acquisition proceedings and villages are different and notifications are also different.

10. In view of the above, I pass the following order:-

ORDER

- (i) Both the appeals are partly allowed as under :-
 - (a) The award passed in L.A.R. No.405/2002 and L.A.R. No.476/2010 be modified as per the rate of compensation accepted by the acquiring body and discussed hereinabove.

(b) The claimants shall be entitle to get the interest under Section 28 and 34 of the Land Acquisition Act, 1894 from the date of the award.

(c) The claimants shall be entitle to get 12% interest per annum as a special competent from the date of notification under Section 4(1) of the Act till the date of passing of award i.e. 22.07.1999 and 25.11.1999 under section 23(1A) of the Act.

(d) The claimants shall be entitle to get 30% solatium on the difference of market value under Section 23(2) of the Act.

(ii) The awards be modified accordingly.

(iii) No order as to costs.

(iv) R & P be sent back to the Reference Court.

(v) Both the appeals are accordingly disposed of.

[S.G. DIGE, J.]