

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

CIVIL APPLICATION (CAF) NO. 1415 OF 2022
IN
FIRST APPEAL NO. 217 OF 2021

Union of India thr. Secretary for Railway Mantralaya, New Delhi and others

...VERSUS...

Ashok Apparao Deshmukh and others

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

Court's or Judge's order

Shri Vandan M. Gadkari, Advocate for appellants.
Shri Sukrut S. Sohoni, Advocate for respondent no. 1.
Shri N.R. Patil, A.G.P. for respondent nos. 2 and 3.

CORAM : SMT. M. S. JAWALKAR,J.

DATE : 29th JUNE, 2022.

Heard both the parties at length.

2. The present application is filed by respondent no. 1 seeking permission to place on record the order of this Court. In view thereof, the present appeal can be disposed of.

3. The documents filed by respondent no. 1 are copies of order passed by this Court. On perusal thereof, it appears that the appeal was filed by the present appellants in the matter of Pradeep Manohar Deshmukh, being aggrieved by judgment and order passed by Reference Court in Land Acquisition Case (LAC) No. 43 of 2013. All the documents are the copies of record. Hence, the application is allowed and permission is granted to place on record the above referred documents/copies.

FIRST APPEAL NO. 217 OF 2021

The learned counsel for respondent no. 1 pointed out that in the similar matter, this Court dismissed the appeal filed by the present appellants on the ground that learned Reference Court held that the land having seasonal irrigation facility, hence, the enhancement granted 1.5 times appears to be quite justified.

2. Thus, in the facts and circumstances of the case, the learned counsel for respondent no. 1 pointed out that in para 23 of the judgment & order passed by the Reference Court, it is specifically held that as there was irrigation facility from the Well existing in the neighbouring field, the land can be said to be seasonal irrigated land and having seasonal irrigation facility. Accordingly, as per market value, its value comes to Rs. 29,70,000/- per hector but the claimant made demand of Rs. 25,00,000/- per hector, as such the rate fixed by the Reference Court for seasonal irrigated land was Rs. 25,00,000/-.

3. It is also pointed out that there are some instances placed on record of dated 18/03/2008 and 14/01/2013. The learned Reference Court in para 20 duly considered the sale deed of March, 2008 as comparable sale deeds and determined compensation.

4. The learned counsel for the appellants raised objection that in Reference Application i.e. Land Acquisition Case (LAC) No. 43 of 2013, decided on 16/11/2018, the rate was fixed as Rs. 18,90,000/- per hector even as there was Well existed in the field. The said order is passed after passing of an order in Reference Application i.e. Land Acquisition Case (LAC) No. 115 of

2013, decided on 29/10/2018, wherein the rate was fixed as Rs. 25,00,000/- per hector even though there was no Well in the field.

5. Thus, it is subsequent to the judgment and order in question of Referral Court. Moreover, in para 14 of Reference Application i.e. LAC No. 115 of 2013, the learned Referral Court duly considered the partition deed and 7/12 extract and came to the conclusion that there was seasonal irrigation facility from the Well existing in Survey No. 241 to the field of applicant as claimant was having share in the Well. Thus, though it is not irrigated land but having seasonal irrigation facility i.e. seasonal irrigated land. Therefore, 1.5 times enhancement is granted by the learned Reference Court. Thus, considering seasonal irrigation facility which is available to the land of respondent no. 1, the enhancement granted at 1.5 times appears to be justified. As such, there is no merit in the appeal, the appeal stands dismissed with costs.

(Smt. M.S. Jawalkar, J.)

B.T.Khapekar