



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

FIRST APPEAL NO.575 OF 2022

{The Executive Engineer, Buldhana **..Vrs..** Vasant Baliram Mule (Dead)
through LRs and Ors.}

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

Court's or Judge's order

Shri N. Waghmare, Advocate for the Appellant/Applicant.
Shri R. P. Masurkar, Advocate for the Respondent Nos.1 (A) to (C).
Shri M. A. Kadu, AGP for the Respondent Nos.2 and 3.

CORAM : ABHAY AHUJA, J.

DATE : 19th SEPTEMBER, 2022.

. This is an appeal challenging the judgment and award dated 12.11.2021 passed by Civil Judge Senior Division Buldana in LAR No.17 of 2018.

2. Shri Waghmare, learned counsel for the appellant would submit that the enhancement granted by the Reference Court from Rs.4,13,000/- per hectare to Rs.20,00,000/- per hectare is without any legal basis inasmuch as the same is on the basis of the oral evidence of the claimants. He submits one of the instances relied upon by the Reference Court is on a transaction with reference to commercial purpose whereas that is not the case here as the land is for rehabilitation of project affected persons. The learned counsel would submit that aspects such as the land being adjacent to the main road, not being developed have also not been taken into consideration, which would easily bring down the value by about 30%.

3. On the other hand, Shri Masurkar, learned counsel for the respondents/original claimants would submit that there is

a State Government corrigendum, which clearly indicates that valuation upto four times ought not to be appealed. He submits that although the enhancement in this case is slightly above four times, upto four times of the amount could be considered as the value of the acquired lands and to that extent the valuation by the Reference Court ought to be upheld.

4. Shri Kadu, learned Assistant Government Pleader for the respondent nos.2 and 3 has no objection, if the appeal is admitted.

5. Having heard the learned counsel for the parties and having perused the appeal, the following order is passed.

ORDER

i) **Admit.**

ii) Registry is directed to call for Record and Proceedings within a period of four weeks.

iii) Private paper-paper book alongwith compilation of documents and evidence be filed within a period of four weeks thereafter.

iv) Let the private paper-book be served on the respondents within a period of two weeks thereafter and an affidavit of service with tangible proof be filed in this Court by the next date.

6. List the appeal on **30.11.2022.**

CIVIL APPLICATION (F) NO.1735 OF 2022.

7. Shri Masurkar, learned counsel for the applicants/original claimants in support of the application for

withdrawal reiterates that in view of the corrigendum dated 11.05.2018 of the Revenue Department, the 100% amount deposited in this Court be allowed to be withdrawn. He refers to an order of the Hon'ble Apex Court dated 16.07.2018 with reference to a matter under Section 37 of the Arbitration Act, 1996, to submit that 100% of the deposited amount should be allowed to be withdrawn.

8. Shri Waghmare, learned counsel for the appellant/VIDC would submit that considering the grounds on which the appeal has been filed and admitted, not more than 50% of the amount be allowed to be withdrawn as it would be very difficult for them to recover the amounts once withdrawn.

9. Having heard the learned counsel for the parties and having perused the application for withdrawal, the following order is passed :

ORDER

A) 50% of the deposited amount in the Reference Court is allowed to be withdrawn in the following manner :

A-I) 50% is allowed to be withdrawn on the basis of usual undertaking that in the event the decision is set aside or modified, the amount would be returned to the appellant.

A-II) 50% is allowed to be withdrawn on the basis of solvent surety/security to the satisfaction of the Registrar of the Reference Court.

B) Balance 50% to be invested in a fixed deposit of a

Nationalized Bank until further orders.

10. The application accordingly stands allowed to the above extent.

CIVIL APPLICATION (F) NO.1424 OF 2022

11. Shri. Waghmare, learned counsel for the appellant states that the entire amount of compensation has been deposited on 20.06.2022. He submits that therefore, nothing survives in the application as the stay has already been granted in the matter and the amount of compensation has already been deposited. In this view of the matter, the application stands disposed.

12. Let the interim stay continue till the disposal of the appeal except to the extent modified by this Court.

(JUDGE)

TAMBE