

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

FIRST APPEAL NO. 1189 OF 2008
WITH
CROSS-OBJECTION NO.28 OF 2012

Maharashtra Industrial Development Corporation
having its Office at Marol Industrial Estate,
Andheri East, Mumbai and
having its Regional Office at By Pass road,
Amravati, through its Chief Executive Officer.

.... **APPELLANT/**
CROSS-OBJECTOR

// VERSUS //

1. Pratik Motilal Rathi
Aged about 35 years,
R/o Camp Road, Amravati.
2. State of Maharashtra,
Through Collector,
Amravati.
3. Sub-Divisional Officer and
Special Land Acquisition Officer,
Amravati.

.... **RESPONDENTS**

Mr. M.M.Agnihotri, Advocate for appellant/cross objector.
Mr. N.R. Saboo, Advocate for respondent No.1.
Mr.N.R.Patil, AGP for respondent Nos.2 and 3.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 24th FEBRUARY, 2022.

ORAL JUDGMENT

1. The Appellant acquiring body has challenged the award

dated 28.04.2008 in LAC No. 51 of 1998. By the impugned judgment and Award, the reference court Amravati has enhanced the compensation in respect of the land admeasuring 1.21 hectares from survey No.31 of village Sawardi to Rs.1,00,000/- per hectare.

2. The brief facts, which are necessary to decide this appeal are as under:-

The land of the Respondent No.1 was acquired for the industrial purpose. Notification under Section 32(2) was published on 14.01.1994, whereas notification under Section 32(1) was published on 02.06.1994. The Land Acquisition Officer granted the compensation at the rate of Rs.30,000/- per hectare for 0.50 H and Rs.15,00/- per hectare for 0.71 H. Not being satisfied with the said compensation, the Respondent No.1 filed reference under Section 34 of the M.I.D.C Act. The reference court has enhanced the compensation to Rs.1,00,000/- per hectare. Being aggrieved by the impugned judgment and Award, the acquiring body has filed this appeal under Section 54 of the Land Acquisition Act,1894. The Respondent No.1-original Claimant has also filed Cross-Objection under Order XLI Rule 22 of the Code of Civil Procedure.

3. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties. It may be mentioned that in First Appeal

No.486/11 the acquiring body had challenged the judgment of the reference court, whereby reference court had enhanced the compensation in respect of the land in the same village Sawardi, acquired by the same notification, to Rs. 1,00,000/- per hectare. By judgment dated 30.08.2016, this Court has dismissed the Appeal and has thus confirmed the rate determined by the reference court. The land which is the subject matter of the present Appeal and the Cross Objection is also situated in Sawardi and it was acquired for the same purpose by the same notification. Hence, in view of the reasons stated in the First Appeal No.486 of 2011, in my considered view, the compensation determined by the reference court does not merit any interference.

4. Shri N.R.Saboo, learned counsel for Respondent No.1 has relied upon the judgment dated 27.11.2018 in First Appeal No.1077 of 2007 to contend that the Respondent No.1/original Claimant is entitled for enhanced compensation of Rs.1,20,000/- The said judgment is in respect of the land in Nandgaonpeth, which is stated to be 4 to 5 km away from the acquired land. Since, the rate in respect of the land in village Sawardi has already been determined at Rs.1,00,000/-, I am not inclined to enhance the compensation on the basis of the judgment in respect of the land situated in another village. Hence, Cross Objection has no merit. Under the circumstances, The Appeal as well as cross objection stand dismissed.

5. The balance amount of compensation along with accrued interest thereon be paid to the Claimant/Respondent No.1.

6. Pending application(s), if any, stand(s) disposed of.

JUDGE

Kavita