



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

69 FIRST APPEAL NO. 4393 OF 2023
MOHMAD USMANALI S/O FATHEULLAH

VERSUS

THE STATE OF MAHARASHTRA THR THE DISTRICT COLLECTOR, NANDED
AND ORS

Mr. N.S. Shah h/f. Mr.S.V. Natu, Advocate for the appellant.
Mr.G.O. Wattamwar, AGP for respondent Nos. 1 and 2/State.
Mr.V.P. Narwade, Advocate for respondent No.3.

CORAM : KISHORE C. SANT, J.
DATED : 11.07.2024

PC :-

01. This appeal arises out of the judgment and order passed by the learned Reference Court i.e. learned Civil Judge, Senior Division, Mukhed in LAR No.163 of 2007 by the judgment and award dated 22.04.2019. The land of the claimant came to be acquired for the purpose of Lendi project. The notification was published on 29.01.1998. The SLAO passed award on 05.02.2004 and awarded total amount of Rs.37,688/- towards compensation of the land of the claimant-appellant for land from Block No.31/1 to the extent of 60R belonging to claimant i.e. appellant herein. The appellant approached the Reference Court by filing reference under section 18 of the Land Acquisition Act.

02. The learned Reference Court considered the evidence of both the parties and enhanced the compensation by 30%. The Reference Court in companion matters also enhanced the compensation by 30% by the impugned judgment and award.

03. The learned Advocate for the appellant though argued the matter on merits, also placed on record copy of common judgment and award passed in First Appeal No.2036 of 2021 along with two other First Appeals. He submits that these First Appeals are also arising out of the same project and from the same village. This Court in the said First Appeals increased the compensation from 30% to 70% of the rate granted by the learned SLAO by considering the appeals on merits. In these appeals, the appellants therein had also produced additional evidence while deciding the appeals. The learned Advocate for the appellant submits that the respondent acquiesced to the said judgment and award passed by this Court in the First Appeals. No SLP is preferred against said judgment. He thus submits that the said judgment is applicable to the present appeal. The appellant is ready to accept the enhancement of 70% of the rate awarded by the learned SLAO.

04. The appeal is opposed by the learned Advocate appearing for the acquiring body and also by the learned AGP. However, they accept the position that the First Appeal No.2036 of 2021 was arising out of the same acquisition proceeding.

05. This Court considered that since the said judgment and award in First Appeal No. 2036 of 2021 is acquiesced by the acquiring body, this appeal can also be disposed off in view of the judgment passed in the said appeal with connected matters on 02.05.2022. Hence, following order :-

ORDER

- (i) The appeal is partly allowed.
- (ii) The amount of compensation granted by the Reference Court is enhanced from 30% to 70%.
- (iii) Rest of the terms of the impugned award to stand unaltered, provided the interest shall be awarded from the date of the award.
- (iv) There is delay in preferring the present appeal. The appellant, therefore, shall not be entitled for component of interest or any other monetary benefit for the period from the date of impugned award for delayed period.

[KISHORE C. SANT, J.]