



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO. 539/2005

Western Coalfields Ltd. Chandrapur .Vs. Laxman Konduji Jungari and ors.

AND

FIRST APPEAL NO. 540/2005

Western Coalfields Ltd. Chandrapur .Vs. Mahadeo Konduji Jungari and ors.

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

Court's or Judge's orders

Mr. P. V. Ghare, Advocate for appellant.

Mr. A. B. Nakshane, Advocate for respondent no.1.

Ms H. H. Dhande, A.G.P. for respondent nos. 2 and 3.

Mr. P. V. Navlani, Advocate for respondent no.4.

CORAM : ANIL L. PANSARE, J.

DATE : 28.02.2024

Heard.

The issue involved in both the appeals is common.
The issue/point for determination is whether the Reference
Court committed error in granting enhanced compensation.
The answer is in the negative for the following reasons.

The lands of respondent no.1 in these two appeals are
situated in the same village i.e. Belora and were acquired by
the State Government for the Western Coalfields Limited
(WCL) by same notification dated 03.12.1987 under Section
4 of the Land Acquisition Act, 1894. The Land Acquisition
Officer has passed the award on 21.09.1990, granting rate of
Rs.19,000/- per hectare. The Reference Court enhanced it to
Rs.38,000/- per hectare. These lands were acquired for
'Belora Open Cast Project'.

Counsel for the respondent no.1 has invited my
attention to the judgment dated 09.09.2009 passed by this

Court in First Appeal No.140/2001, along with five connected appeals. The challenge was to the compensation granted by the Reference Court at the rate of Rs.50,000/- per hectare in some cases and at the rate of Rs.40,000/- per hectare in other cases. This Court has dismissed the appeals and maintained the amount of compensation as awarded by the Reference Court. These lands were acquired for 'Niljai Railway Siding Project'. The notification under Section 4 was issued on 17.08.1989. The Land Acquisition Officer has passed the award on 12.12.1992 and granted compensation at the rate of Rs.29,000/- per hectare. The Reference Court has enhanced the compensation to Rs.50,000/- in some cases and Rs.40,000/- in some cases. The High Court has dismissed the appeals.

The counsel for the respondent no.1 has then invited my attention to the judgment dated 23.02.2018 passed by this Court in First Appeal No. 51/2005. In this case also, the land situated at Belora village was acquired vide notification dated 17.08.1989. The Land Acquisition officer has granted compensation at the rate of Rs.29,770/- per hectare. The Reference Court enhanced it to Rs.50,000/- per hectare. The WCL and the claimant therein have both challenged the award passed by the Reference Court. This Court has dismissed the appeal filed by the WCL and allowed the cross-objection and further enhanced the compensation to Rs.65,000/- per hectare.

Accordingly, the learned counsel for the respondent no.1 submits that in the present case, notification under Section 4 has been issued on 03.12.1987. As against, the

notification under Section 4 in the cases referred above was published on 17.08.1989. In the present case, date of award is 21.09.1990. As against, in the appeals referred to above wherein the date of award is 12.12.1992. The Land Acquisition Officer has granted compensation at the rate of Rs.19,000/- per hectare in the present case. As against the Land Acquisition Officer had granted the compensation at the rate of Rs.29,770/- per hectare in the referred first appeals. The Reference Court has enhanced the compensation to Rs.38,000/- in the present case. As against in the first appeals referred to above, the Reference Court granted compensation at the rate of Rs.40,000/- and Rs.50,000/-. This Court has either maintained the order passed by the Reference Court or has enhanced the amount to Rs.65,000/-per hectare.

The counsel for the respondent no.1 submits that considering the time span of only two years, in the acquisition proceedings in the present case and the first appeals referred to above, the present appeals could be decided. He submits that this Court has maintained the award passed by the Reference Court granting compensation at the average rate of Rs.50,000/- per hectare. Accordingly, he submits that two years prior thereto, the compensation granted by the Reference Court at the rate of Rs.38,000/- per hectare need not be disturbed.

Learned counsel for the appellant has made an attempt to justify the challenge. However, considering the view taken by this Court in the first appeals referred to above in the acquisition proceedings commenced in the year 1989, wherein this Court has maintained the enhanced rate at

Rs.50,000/- approximately, award passed by the Reference Court in the present case directing enhancement of compensation at the rate of Rs.38,000/- in the acquisition proceedings which commenced in the year 1987 appears to me to be reasonable. There is no reason why should said award be disturbed considering the judgments cited by the respondent no.1 in the first appeals.

In other words, there is no substance in the appeals. The appeals are accordingly dismissed. No order as to costs.

(Anil L. Pansare, J.)