

(2023) 02 BOM CK 0062
In the Bombay High Court
Case No : First Appeal No.702, 703 Of 2022

Indubai And Others

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 16-02-2023

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 28, 34

Citation : (2023) 02 BOM CK 0062

Hon'ble Judges : Sandipkumar C. More, J

Bench : Single Bench

Advocate : G. N. Chincholkar, A. B. Chate, S. C . Arora

Final Decision : Partly Allowed/Disposed Of

Judgement

Sandipkumar C. More, J

1. Both these appeals are filed by respective appellants, who are the original claimants in L.A.R. Nos. 79/2013 and 81/2013 respectively, for challenging the judgments and awards passed by the learned Civil Judge Senior Division, Mukhed (hereinafter referred to as the 'learned Reference Court') on 23.11.2018.

2. In L.A.R. No. 79/2013, the learned Reference Court has enhanced compensation of house Nos. 115 and 121 admeasuring 691 sq. mtrs. along with the open space by 35 % i.e. Rs. 2,65,650/- in addition to compensation granted by Special Land Acquisition Officer of Rs. 7,59,799/- under award dated 25.02.2006. Likewise, in L.A.R.No. 81/2013, the learned Reference Court has enhanced compensation by 35 % i.e. Rs. 1,41,233/- in addition to Rs. 4,03,525/- i.e. compensation granted by the S.L.A.O. under award dtd. 25.02.2006 in respect of house properties bearing Nos. 111 and 114 along with open space 553.81 sq.mtrs. having constructed area 170.77 sq.mtrs.

3. During the pendency of these appeals, the learned counsel for the appellants submits that certain appeals arising out of same awards in respect of the house properties are disposed of, wherein the valuation report was considered.

According to him, despite filing the same valuation report on record in these matters, the learned Reference Court failed to consider the same. Thereafter, learned counsel for the respective appellants placed reliance on the judgment of this Court dated 28.08.2019 in First Appeal No. 1797/2018 and prayed for similar order. The learned counsel for the Acquiring Body has also agreed for disposal of these appeals as per the judgment in the aforesaid First Appeal No. 1797/2018.

4. Both the rival counsel are, therefore, in agreement for awarding the compensation amounts in these matters as per the valuation reports submitted before the learned Reference Court.

5. Thus, base on the valuation report on record, it appears that compensation in respect of house properties in First Appeal No.702/2022 arising out of L.A.R. No. 79/2013, comes to Rs.26,96,521/- whereas valuation in respect of house properties mentioned in First Appeal No. 703/2022 arising out of L.A.R.No. 81/2013, comes to in respect of house No. 111 of Rs.7,64,315.96 and in respect of house No.114 of Rs. 8,11,200/-.

6. On perusal of the judgment in First Appeal No.1797/2018, this Court vide order dated 28.08.2019 had relied upon the valuation report and granted compensation according to the said report instead of 35% rise of the price awarded by the learned Reference Court.

7. Further, this Court in the aforesaid appeal had also granted statutory benefits under Sections 28 and 34 of the Land Acquisition Act, 1894, from the date of award i.e. 25.02.2006 and not from the date of notification under Section 4 of the Act as awarded by the Reference Court. Since the rival counsel are in agreement for passing similar order by considering the valuation report on record and the judgment in First Appeal No. 1797/2018, I pass the following order :

ORDER

(i) Appeals are hereby partly allowed.

(ii) The judgment and award passed by the learned Reference Court in L.A.R.No. 79/2013 is hereby set aside to the extent of quantum of compensation in respect of the house properties mentioned therein and it is enhanced to Rs. 26,96,521/- as per the valuation report on record for house Nos. 115 and 121 admeasuring 691 sq. mtrs. along with the open space.

(iii) Likewise, the judgment and award dated 23.11.2018 passed by the learned Reference Court in L.A.R.No. 81/2013 is hereby set aside to the extent of quantum of compensation and it is enhanced to Rs. 7,64,315.96 for house Nos. 111 and Rs. 8,11,200/- for house No. 114 along with the open spaces to the aforesaid houses.

(iv) Appellants are entitled to receive the statutory benefits under Section 28 of the Land Acquisition Act, 1894 from the date of award i.e. dated 25.02.2006 and not from the date of notification under Section 4 of the Act as awarded by the

Reference Court. Rest of the order remains as it is.

(v) The Acquiring Body is directed to deposit the enhanced amount of compensation within three months from the date of this order and on such deposit of compensation amounts, the respective appellants / claimants are permitted to withdraw the same.

(vi) Award be modified and prepared accordingly.

(vii) Both the appeals are, thus, disposed of.