

(2022) 07 BOM CK 0034

In the Bombay High Court

Case No : First Appeal No. 2460, 2461, 2486, 3036 Of 2021, 724, 1229 Of 2022, Civil Application No. 13344 Of 2021

Kashinath And Others

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 13-07-2022

Acts Referred:

Citation : (2022) 07 BOM CK 0034

Hon'ble Judges : S.G.Dige, J

Bench : Single Bench

Advocate : G.N. Chincholkar, S. R. Yadav Lonikar, Shyam B. Patil, R. D. Biradar, U. P. Giri

Final Decision : Allowed

Judgement

S.G.Dige, J

1. All these appeals have been preferred by the original claimants feeling aggrieved by the impugned judgment and award passed by the learned Civil Judge, Senior Division, Kandhar and Civil Judge, Senior Division, Link Court, Mukhed in respect of the Land Acquisition References pertaining to the house properties.

2. Mr.G.N. Chincholkar, learned counsel for the appellants submits that these appeals are arising out of the same project and from the same village. There is vast difference in price of suit house granted by the acquiring body and Valuer. The appellants-original claimants examined the Government Approved Valuer Shri Shrisant V. Barbade as PW- 2 before the Reference Court and the Government Approved Valuer submitted its report stating that the compensation of suit house No.133/3 is Rs.89,355/-, but the said report is not considered by the Reference Court. This Court was pleased to allow First Appeal No.719/2013 and First Appeal No.1488/2020 with connected appeals, thereby accepting the report submitted by the Valuer in respect of the house properties and this Court

enhanced the compensation as per the valuation report. The learned counsel further submits that the same treatment needs to be given in these appeals.

3. Shri.R.D. Biradar h/f Shri U.P. Giri, advocate for respondent nos.3 in F.A. No.2425/2021 and 2486/2021, Shri Sham B. Patil, advocate for respondent no.3 in First Appeal Nos.3036/2021, 1229/2022 and 2461/2021, 2486/2021, 3036/2021, 2460/2021, Shri. A.B. Chate, AGP for respondent/State in F.A. Nos.2461/2021, 2486/2021 and 3036/2021 and Shri. P.M. Kulkarni, AGP for respondent/State in F.A. No.1229/2022 and 724/2022 fairly concede the position about the earlier decision delivered by this Court in First Appeal no.719/2013 and with connected matters. The learned counsel submits that the compensation awarded by the learned Reference Court is adequate, hence there is no need to interfere in that order.

4. I have heard the learned counsel for the respective parties. Perused the impugned judgment and award passed by the Reference Court in the respective Land Acquisition References.

5. Admittedly, this Court has allowed the appeal in connected matters and enhanced the compensation as per the valuation report. The following chart would depict the position more clearly.

FA No. & LAR NO.

House No. & Area

Section 4 notification

Award

LAO granted compensation

Reference Court granted

Compensation as per valuation report

1229/2022 LAR No.87/2008

132/1 & T = 33 Sq. adm. 19.80 Sq. Mt cons. Area & 13.20 open area

21/08/1997

26.3.02

15483/-

Enhanced by Rs.3971 GrantedRs.19354/-

89355/-

2461/2021 LAR No. 41/2008

133/03

21/08/1997

26/03/02

31,840/-

Enhanced by Rs.8,201/- granted Rs.41,005/-

89355/-

2486/21 LAR No. 59/2008

240/1 & 31.95 Sq. Mt.

26/03/02

42,860/-

Enhanced by 10,715/- & granted 112095/-

132803/-

3036/2021 LAR No. 31/2005

281/1, 2, 3 & 95.90 Sq. Mt

21/08/1997

26/03/02

1,03,331/-

Enhanced by 25,832/-

2,06,171/-

724/2022 LAR No. 21/2005 (New)

152 & 152 Adm. 32.20 12.5 Sq. Mtrs

23/04/1997

26/03/02

42968/-

Enhanced by 10,742/- & granted 53710/

155083/-

2460/2021 LAR No.20/2005 (New

151/23 Adm. 75 Sq. Mtrs.

23/04/1997

26/03/02

50435/-

Enhanced by 12,608 & granted Rs.3,043/

1,93,193/-

6. In all these appeals, the valuer has made valuation of the house properties, which has been acquired for the same project. The valuation of the respective house properties given by the experts is shown in column no. 7 in above chart, as under:

Sr. No.

First Appeal No.

Compensation as per valuation report

1

First Appeal No. 1229/2022

89,355/-

2

First Appeal No. 2461/2021

89,355/-

3

First Appeal No. 2486/2021

1,32,803/-

4

First Appeal No. 3036/2021

2,06,171/-

5

First Appeal No. 724/2022

1,55,083/-

6

First Appeal No.2460/2022

1,93,193/-

7. This Court has considered the evidence of Shrishant Barbade - Valuer and Valuation report and enhanced the compensation in connected appeals, which are 11 arising out of one and the same acquisition proceedings. The orders in those appeals are not challenged, hence attained finality.

8. In respect of awarding interest, the Full Bench of this Court in case of State of

Maharashtra Vs. Kailash Shiva Rangarei reported in 2016 (3) Mh. L.J. 457 has held that the appellants would be entitled to get interest on the enhanced compensation from the date of the award till realisation of the amount. To that extent, award needs to be modified.

9. In view of the above, I pass the following order :-

ORDER

1. The appeal nos.2460/2021, 2461/2021, 2486/2021, 3036/2021, 1229/2022 and 724/2022 stand allowed as under:

(i) The appellants shall be entitled to get compensation in respect of their respective house properties as shown below.

Sr.No

FA No. & LAR NO.

House No. & Area

Compensation as per valuation report

1

1229/2022 LAR No.87/2008

132/1 & T = 33 Sq. adm. 19.80 Sq. Mt cons. Area & 13.20 open area

89355/-

2

2461/2021 LAR No. 41/2008

133/03

89355/-

3

2486/21 LAR No. 59/2008

240/1 & 31.95 Sq. Mt.

132803/-

4

3036/2021 LAR No. 31/2005

281/1, 2, 3 & 95.90 Sq. Mt

2,06,171/-

5

724/2022 LAR No. 21/2005 (New)

152 & 152 Adm. 32.20 12.5 Sq. Mtrs

155083/-

6

2460/2021 LAR No.20/2005 (New)

151/23 Adm. 75 Sq. Mtrs.

1,93,193/

(ii) The appellants shall be entitled to get interest on the enhanced compensation from the date of award till the date of realisation of the amount. However, the delay caused by the appellants in preferring the respective appeals shall be excluded while making the calculation of interest.

(iii) Rest of the terms of the impugned awards stand confirmed.

2. The awards stand modified accordingly.

3. No order as to the costs.

4. The appeals stand disposed of accordingly.

5. In view of the disposal of the first appeals itself, pending civil applications, if any, same stand disposed of.