

(2018) 01 BOM CK 0055
In the Bombay High Court
Case No : 1118 of 2017

Shevantabai Chandrabhan Kanherkar? (dead). Vs The Executive Engineer

Date of Decision : 16-01-2018

Acts Referred:

Land Acquisition Act, 1894, Section 4, Section 18 - Publication of preliminary notification and powers of officers thereupon. - Reference to Court

Citation : (2018) 01 BOM CK 0055

Hon'ble Judges : Manish Pitale

Bench : Division Bench

Advocate : A.B. Nakshane, ?M.A. Kadu, ?Geeta Tiwari

Final Decision : Disposed

Judgement

1. Heard. Admit. Heard finally with the consent of the learned Counsel appearing on behalf of the respective parties.
2. In the instant case, the land belonging to the appellants in village Dighi, Taluka Babhulgaon, District Yavatmal in Gat No. 104 admeasuring 4.79 Hrs was acquired by the respondents for the Bembla Project. The notification under Section 4 of the Land Acquisition Act, 1894, was issued on 14.08.2003 and the award was passed by the Land Acquisition Officer on 31.05.2005 granting compensation at Rs.76,568/- per hectare. Upon the appellants preferring a reference application under Section 18 of the said Act, the reference Court enhanced the compensation to Rs.1,70,000/- per hectare. It is against the said order that the appellants have filed this appeal claiming further enhancement of compensation.
3. Shri Nakshane, learned Counsel for the appellants points out

that this Court in First Appeal No. 3 of 2017, concerning acquisition proceedings arising out of the same notification, has granted enhanced compensation at the rate of Rs.2,10,000/- per hectare. The judgment and order dated 2.12.2017 in the said First Appeal No. 3 of 2017 is placed on record.

4. The learned Counsel for the respondents do not dispute this position. Therefore, this appeal is partly allowed in terms of the aforesaid judgment and order dated 21.12.2017 passed in First Appeal No. 3 of 2017 and it is held that the appellants are entitled to increased compensation at the rate of Rs.2,10,000/- per hectare. It is further noted that by order dated 19.09.2017, while allowing the application for condonation of delay, it was directed that the delay application was being allowed on the condition that the appellants shall not claim any interest for the delayed period on enhanced compensation i.e. from 16.07.2011 to 19.09.2017. Therefore, although the appellants shall be entitled to compensation at the enhanced rate as aforesaid, there shall not be any interest payable on the enhanced amount for the period from 16.07.2011 to 19.09.2017. It goes without saying that the enhanced compensation shall be given to the appellants along with statutory benefits.

The appeal stands disposed of in aforesaid terms.