

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 287 OF 2000

Mirabai Bandu @ Baddusingh Rathod,
Age 48 years, Occu.: Household & Agri.,
R/o Rithe, Tq. Kinwat, Dist. Nanded .. Appellant

VERSUS

- 1] The State of Maharashtra,
Through Collector,
Collectorate Nanded
- 2] The Special Land Acquisition Office,
Percolation Tank,
Minor Irrigation Works No.2, Nanded
- 3] The Executive Engineer,
M.I. Division, Nanded .. Respondents

Mr. Nikhil S. Tekale, Advocate i/b. Mr. P.V. Mandlik,
Sr. Advocate for the appellant
Mr. S.P. Daund, AGP for the respondent/State

CORAM : M.T. JOSHI, J.
DATE : 04/02/2015

ORAL JUDGMENT :

1. Heard both sides.
2. Aggrieved by the direction to pay compensation lesser than claimed by the appellant in Land Acquisition Reference proceeding, the present appeal is preferred by the original petitioner i.e. the land owner.

3. The land of the present appellant was acquired by the State for the purposes of construction of a percolation tank. The notification under section 4 was published in the Government Gazeetee on 11/01/1991. The Land Acquisition Officer has offered the price at the rate of Rs.170/- per are to the present appellant. Therefore, aggrieved by the same, the Land Acquisition Reference Applications were made. Before the learned reference Court, though the present appellant has filed certified copy of two sale deeds, nobody was examined to prove the same. The learned reference Court therefore refused to rely over the same. Further certified copy of the two judgments in L.A.R. no. 8 of 1996 and L.A.R. no. 294 of 1996 were also pressed into service. Those were however from different village though acquired for the same project being 2 km. away, the learned reference Court refused to place reliance on the same. In the circumstances, reference applications came to be dismissed. Hence, the present appeal.

4. Learned counsel for the appellant submits that in view of the provisions of section 51-A of the Land Acquisition Act, the certified copy of the sale deed

itself becomes admissible in the evidence. In the circumstances, he submits that the learned reference Court ought to have enhanced the compensation to the compensation at the rate of Rs.50,000/- per hectare, as claimed by the present appellant.

5. The learned A.G.P. opposed the submissions. He submits that the comparable sale instances were not placed on record.

6. On the basis of this material, following point arises for my determination:-

. Whether the award of the reference Court represents the true market value of the acquired land?

. My finding to the said point is in the negative. The appeal is therefore partly allowed with proportionate costs for the reasons to follow.

R E A S O N S

7. It should be noted that in view of the provisions of section 51-A of the Land Acquisition Act,

the certified copy of the sale deed itself is admissible in evidence. In that view of the matter, certified copy of the sale deed can be read in evidence.

8. However, one of the sale deed is though of the same village, is dated 24/2/1997. The notification under section 4 of the Land Acquisition Act in the present case was issued in the year 1991. Therefore, the sale deed which was executed after six years of the notification cannot be relied on.

9. Next of the sale deed however is dated 2/2/1990. It was regarding land survey no. 71 under which land admeasuring 1 hectare and 34 are was sold by one Gunderao for a consideration of Rs.34,000/- i.e. at the Rs.253/- and odd per are. The sale deed was executed one year prior to the publication of the notification under section 4 of the Land Acquisition Act. Therefore, upon addition of assumed increase in the price at the rate of 7.5% per annum, the market price of the acquired land would be Rs.270/- per are. The judgments in the earlier Land Acquisition Reference Applications cannot be relied in, as those are from different village with no evidence regarding similarity

between the lands. In that view of the matter, the following order:-

10. The appeal is therefore partly allowed with proportionate costs. It is hereby directed that the respondents shall pay the total compensation at the rate of Rs.270/- per are to the appellant including the compensation already paid with statutory interest component as per the provisions of the Land Acquisition Act.

11. Appeal is accordingly disposed of on the above directions.

[M.T. JOSHI]
JUDGE

arp/