

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 620 OF 2001
AND
CIVIL APPLICATION NO.6338 OF 2001

The State of Maharashtra
through Special Land
Acquisition Officer, MIW,
Jalgaon

.. Appellant/
Applicant
(Orig. Opponent)

VERSUS

Gangadhar Zagar Khaire,
Age 46 years, Occu.: Agri.,
R/o Pimpalkhed, Tal. Chalisgaon,
Dist. Jalgaon

.. Respondent
(Orig. Applicant)

WITH
FIRST APPEAL NO. 621 OF 2001
AND
CIVIL APPLICATION NO.6339 OF 2001

The State of Maharashtra
through Special Land
Acquisition Officer, MIW,
Jalgaon

.. Appellant/
Applicant
(Orig. Opponent)

VERSUS

Hanifkhan Husen Kha,
Age 42 years, Occu.: Agri.,
R/o Pimpalkhed, Tal. Chalisgaon,
Dist. Jalgaon

.. Respondent
(Orig. Applicant)

AND
FIRST APPEAL NO. 622 OF 2001
AND
CIVIL APPLICATION NO.6340 OF 2001

The State of Maharashtra

through Special Land
Acquisition Officer, MIW,
Jalgaon

.. Appellant/
Applicant
(Orig. Opponent)

VERSUS

Hausabai Trambak Dube,
Age 42 years, Occu.: Agri.,
R/o Pimpalkhed, Tal. Chalisgaon,
Dist. Jalgaon

.. Respondent
(Orig. Applicant)

Mr. S.G. Sangle, AGP for the appellant-State in all F.As
Mr. B.R. Warma, Advocate for the respondent (FA/620/2001 and
FA/621/2001)
Mr. V.G. Sakolkar, Advocate for respondent (FA/622/2001)

CORAM : M.T. JOSHI, J.

DATE : 16/02/2015

ORAL JUDGMENT :

1. Heard both sides.
2. The present group of first appeals is de-tagged from the group of rest of first appeals i.e. First Appeal Nos. 625 of 2001, 626 of 2001, 628 of 2001, 629 of 2001, 630 of 2001 and 631 of 2001.
3. Aggrieved by the direction to pay higher compensation in land acquisition proceedings, the State has preferred the present appeals.

4. The lands of the respondents were acquired for the purposes of construction of Minor Irrigation tank of village Pimparkhed, Tq. Chalisgaon, Dist. Jalgaon. The notification under section 4 of the Land Acquisition Act was issued on 06/12/1984. The Land Acquisition Officer has offered the price at the rate of Rs.11,162/- per hectare. The present respondents claimed that the market price of the land at the relevant time was Rs.75,000/- per hectare. Therefore, the reference applications were filed.

5. Before the learned reference Court, all the present respondents relied over the sale instance of village Sangavi of gat no.60/1 admeasuring 93 Are for a price of Rs.37,000/-. The sale instance was dated 31/12/1982. The learned reference Court believed the oral testimony of the respondents that both the villages are adjacent to each other. In the circumstances, the Court observed that the market price would be Rs.40,000/- per hectare. Accordingly, the enhancement was made.

6. Mr. Sangle, learned A.G.P. submits that the learned Judge blindly believed the oral testimony of the claimants without adverting to the cross-examination that while the sale instance was regarding the land which was situated on Sangavi-Pimparkhed road, the acquired lands were 1-1/2 km. away from the road. Further, there was no documentary evidence to show that village Sangavi and village Pimparkhed are adjoining to each other.

7. Mr. Warma and Mr. Sakolkar, learned counsel for the respondents however submit that the reasoning of the learned Judge is sound.

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

. What is the true market price of the acquired land ?

My finding to the above point is at the rate of Rs.11,162/- per hectare, as offered by the Land Acquisition Officer. The appeals are therefore allowed without any order as to costs for the reasons to follow.

R E A S O N S

9. It is to be noted that the sale instance is from different village. There is no documentary evidence to show that village Pimparkhed and Sangavi are adjoining to each other. On the other hand, the respondents during cross-examination have accepted that while the sale instance is regarding the land which is situated on Sangavi-Pimparkhed road, the acquired lands are about 1-1/2 to 2 Km. away from the road. The then attesting witness examined by the defence was not able to tell the distance of the acquired lands and the lands as represented in the sale instance. As the respondent land owner failed to prove that the sale instance regarding the land is in the vicinity of the acquired land, the learned Judge of the reference Court ought not have placed reliance on the same. In the circumstances, the following order:-

10. The appeals are therefore allowed without any order as to costs.

11. The awards of the learned reference Court are hereby set aside. Instead, the reference applications are hereby dismissed without any order as to costs.

12. Consequently, Civil Application nos. 6338 of 2001, 6339 of 2001 and 6340 of 2001, seeking stay to the execution of the impugned awards also stand disposed of.

[M.T. JOSHI]
JUDGE

arp/