

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.398 OF 2000

Vithalrao s/o. Jankiram Dhase,
age 60 years, occ. Service and
Agriculture, r/o. Tale Pimpalgaon,
Tq. Patoda, Dist.Beed ..Appellant

Versus

The State of Maharashtra,
through the Collector beed,
Tq. and Dist. Beed ..Respondent

WITH
FIRST APPEAL NO.399 OF 2000

Ghansham s/o. Jagannath Choure,
age 60 years, occ. Agriculture,
r/o. Tale Pimpalgaon,
Tq. Patoda, Dist.Beed ..Appellant

Versus

The State of Maharashtra,
through the Collector beed,
Tq. and Dist. Beed ..Respondent

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In both appeals :-

Mr.T.B.Bhosale, advocate for appellants

Mr.S.P.Dound, AGP for respondent - State

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CORAM : M.T. JOSHI, J.
DATE : JANUARY 20, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by grant of lesser compensation than claimed, present appeals are preferred by the original claimants.

3] The lands of village Tale Pimpalgaon, Tq.Patoda, Dist.Beed were acquired by the State for the purposes of irrigation project. The Land Acquisition Officer has granted compensation at the rate of Rs.140/- per Are. According to the appellants, the market price of the lands was Rs.1,000/- per Are at the time of acquisition of the lands. The notification under Section 4(1) of the Land Acquisition Act was issued on 23th July, 1987, therefore, the reference application was filed.

4] Before learned Addl. District Judge, two sale instances (Exhibits 18 and 20) were relied. Learned Judge, however, granted compensation at the Rs.360/- per R. Hence, the present appeals.

5] Mr.Bhosale, learned counsel for the appellants, submits that when the sale instances relied by the appellants clearly proved that the market price of the acquired land was Rs.1,000/- per Are and the distance between the lands was one kilometer away, learned Judge ought to have granted compensation on the line of the valuation of the lands as shown in the sale instances.

6] On the other hand, learned A.G.P. submits that learned Addl. District Judge has given valid reasons for not relying the said two sale instances. One sale instance is from the town

of Patoda wherefrom, bus-stand of Patoda is only half kilometer away.

7] On the basis of this, following point arises for my determination :-

Whether the award represents true market price of the lands in question ?

. My answer to this point is in affirmative and the appeals are therefore, dismissed for the reasons to follow.

8] The acquired lands were of village Tale Pimpalgaon. The notification under Section 4(1) of the Act was issued on 23th July, 1987. The sale instance Exhibit 20 was regarding Patoda, which is a Tahsil place. The cross-examination of the

purchaser of land in the said instance PW 2 – Dadasaheb would show that the city of Patoda is one kilometer away from his land while, the bus-stand of Patoda is about half kilometer away from the land purchased by him. Further the land purchases by him is only 18 Ares.

9] The acquired land is from village Tale Pimpalgaon and in the circumstances, learned District Judge held that said price cannot be compared with the price of the acquired land. In my view, no fault can be found for the reasons given by learned District Judge in that regard as all the admissions came in the cross-examination, as detailed supra.

10] As regards another sale instance at Exhibit 18, it showed that it was only 6 Ares irrigated land i.e. from the different village i.e. village

Tamba Rajuri. However, since no other sale instance was relied, learned Judge tried to compare the acquired land of the present appellants with the said sale instance and it was held that that the market price of the acquired land would be Rs.300/- per Are on the day of the execution of said sale instance. Thereafter, 7% per annum increase in the market value was assumed and ultimately, the market value was calculated.

11] It is to be noted that though present appellants failed to rely any other sale instance from their own village i.e. Tale Pimpalgaon and though they failed to prove, by any documentary evidence, that the sale instances were comparable, yet, learned District Judge has considered all the material on record giving certain benefits to the appellants.

12] In view of the material discussed above, in my view, no fault can be found with the reasons given by learned District Judge.

13] Both the appeals are hereby dismissed without any order as to costs.

[M.T. JOSHI, J.]

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