

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 334 OF 2000

Ganpati S/o Kisan Shendge,
Age 48 years, Occu.: Agril.,
R/o : Tippatwadi, U/v. Navagan
Rajuri, Tq. and Dist. : Beed

.. Appellant
(Orig. Petitioner)

VERSUS

The State of Maharashtra,
through the Collector, Beed

.. Respondent
(Orig. Respondent)

WITH

FIRST APPEAL NO. 335 OF 2000

Smt. Ashrabai W/o Bhagwan Chavan,
Age 40 years, Occu.: Household and
Agri., R/o. Tippatwadi U/v Navagan
Rajuri, Tq. And Dist. Beed

.. Appellant

VERSUS

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

.. Respondent

AND

FIRST APPEAL NO. 336 OF 2000

Suresh S/o Ashruba Jadhve,
Age 34 years, Occu.: Agri.,
R/o. Tippatwadi, U/v Navagan
Rajuri, Tq. And Dist. Beed

.. Appellant

VERSUS

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

.. Respondent

Mr. Tatyasaheb B. Bhosale, Advocate for the appellant in all
First Appeals

Mr. S.M. Jadhav, A.G.P. for the respondent/State in all
matters

CORAM : M.T. JOSHI, J.

DATE : 21/01/2015

ORAL JUDGMENT :

1. Heard both sides.
2. Aggrieved by the lesser compensation awarded by the learned Additional District Judge, Beed in the land acquisition reference cases, the original claimants have preferred the present appeals.
3. The lands of the present appellants of village Tippatwadi within Navagan Rajuri, Taluka and Dist. Beed were acquired by the State for the purposes of construction of percolation tank. The Land Acquisition Officer has offered the price at the rate of Rs.65/- per R. According to the appellants, however, the market price of the land was Rs.375/- to Rs.400/- per R. Therefore, they applied for reference. Before the reference Court, besides the oral evidence, the two sale instances were relied on at Exhibit 17 and Exhibit 28. Exhibit 17 would show that 9-1/2 R of irrigated land of

very same village was sold on 17/11/1983 at the rate of Rs.421/- per R. So far as Exhibit 28 is concerned, it was the land from village Shirapur Dhumal and the transaction took place on 13/05/1983.

4. The learned reference Court refused to rely on Exhibit 28 as it was from different village.

5. So far as Exhibit 17 is concerned, the learned Reference Court took into consideration the fact that the area sold was small and the land was also irrigated land. Still, in absence of any other comparable documentary evidence, the learned Additional District Judge took into consideration the fact that small piece of land was sold and that it was irrigated land. After giving the necessary deduction, the learned Additional District Judge estimated that the price of small area of dry land would come to Rs.224=52 per R rounded to Rs.225/- per R. Thereafter, in view of the passage of time, between the said sale instances and the notification under section 4 of the Land Acquisition Act in the present case and ultimately it was held that the market price would be Rs.250/- per R on the date of publication of the notification.

6. Mr. Bhosale, learned counsel for the appellants submits that the lands acquired were also pieces containing small areas. In the circumstances, he submits that without any deduction, compensation ought to have been awarded on the line of the consideration found in the sale instances at Exhibit 28. Mr. Bhosale also submits that in fact the acquired lands were irrigated lands.

7. On the other hand, learned A.G.P. submits that even Exhibit 28 was not comparable sale instance as it was merely for 9-1/2 R and that too of an irrigated land.

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

. Whether the learned Additional District Judge has awarded just compensation?

My finding to the above point is in the affirmative. The first appeals are therefore dismissed without any order as to costs for the reasons to follow.

R E A S O N S

9. It should be noted that Exhibit 17 though was earlier to the date of issuance of notification under section 4 of the Land Acquisition Act and also from the same village, it was merely for 9-1/2 R of irrigated land. In the circumstances, the learned Additional District Judge has taken efforts to compare the consideration paid therein with the market price of the acquired lands and after giving the deductions, it was ultimately held that the market price of the lands would be Rs.250/- per R.

10. Another sale instance at Exhibit 28 was not comparable being from different village and having no documentary evidence to show that these two villages are in the vicinity of each other or the lands are comparable. It is the contention of the appellants that the lands are irrigated lands. However, the 7/12 extract at Exhibit 37 would show that dry crops were grown.

11. In that view of the matter, when the learned Additional District Judge on the basis of the material before him has given the correct estimate, there is no need to interfere in the said reasoning for the reasons forwarded earlier. In the circumstances, the following order:-

12. All the First Appeals are hereby dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE

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