

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.358 OF 2000

Zilla Parishad, Jalgaon,
through its Chief Executive ..Appellant
officer

V E R S U S

- 1 Rupa Ravji Sarode, age 50
years, occ. Farmer, r/o.
Panchdeoli, Taluka Bhusawal,
Dist. Jalgaon
- 2 The Special Land Acquisition
Officer, U.T.P.-2, Jalgaon, ..Respondents
Dist.Jalgaon

WITH

FIRST APPEAL NO.347 OF 2000

Zilla Parishad, Jalgaon,
through its Chief Executive ..Appellant
officer

V E R S U S

- 1 Narayan Sonu Sarode, Age 60
years, occ. Farmer, r/o.
Pimpalgaon (Bk.), Taluka
Bhusawal, Dist. Jalgaon

2 The Special Land Acquisition
Officer, U.T.P.-2, Jalgaon, ..Respondents
Dist.Jalgaon

WITH
FIRST APPEAL NO.348 OF 2000

Zilla Parishad, Jalgaon,
through its Chief Executive ..Appellant
officer

V E R S U S

- 1 Daulat Tukaram Patil,
deceased by his heirs,
- 1-A) Anusayabai w/o. Daulat
Junore, age 60 years
- 2 Ukhardu Nathu Patil, Age 35
years, occ.Farmer, r/o.
Pimpalgaon Bk. Taluka
Bhusawal, District Jalgaon
- 3 The Special Land Acquisition
Officer, U.T.P.-2, Jalgaon, ..Respondents
Dist.Jalgaon

In all appeals :-

Mr.Vijay Sharma, advocate for appellant

Mr.S.C.Swami, advocate h/f. V.D.Gunale,
advocate for respondent no.1

CORAM : M.T. JOSHI, J.
DATE : JANUARY 27, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by the respective awards passed in each of the Reference Petitions, separately, but on the same evidence, to pay enhanced compensation at the rate of Rs.50,000/- per hector, present appeals are preferred by the acquiring body.

3] The lands in the present appeals of village Panchdeoli were acquired by the State for construction of percolation tank. The notification under Section 4 of the Land Acquisition Act was issued on 26th December, 1995. The Land Acquisition Officer had offered compensation at Rs.16,600/- per Hector for Jirayat land and Rs.400/- per Hector for Potkharaba land.

4] The sale instance of village Talveli relied by the claimants would show that it was dated 29th May, 1985 and 38 Are land was sold for a consideration of Rs.20,000/-. Either sale deed or photocopy of the same was placed in each of the claim petitions.

5] During cross-examination, each claimants has admitted that though the sale instances of their village were available, the sale instance of village Talveli was relied. There was no evidence before the reference court that the land sold under the said sale instance was comparable with the acquired lands. Further, there was no evidence that the lands acquired were irrigated lands. Learned Member, however, relied said sale instance and came to the conclusion that the lands were irrigated lands, therefore, enhancement was granted at Rs.50,000/- per Hector.

6] Mr.Sharma submits that this material would show that learned Judge has misdirected himself in enhancing the compensation.

7] On the other hand, learned counsel for the respondents/claimants submits that the reasoning given by learned Judge are proper.

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

Whether the awards of the learned Civil Judge Senior Division refer correct market value of the lands at the time of acquisition ?

. My answer to the above point is in negative and the appeal is therefore, allowed for the reasons to follow :-

R E A S O N S

9] The claimants have admitted that the sale instance of village Talveli was placed on record for the purpose of getting enhanced compensation, though the sale instances of village Pachdeoli were available during the relevant period. No evidence was placed on record to show that both the villages were in the vicinity of each other and that the lands were comparable. Besides this, the admissions of the claimants would show that the lands acquired were dry crop lands and in Land Acquisition Reference No.111 of 1991 out of which, First Appeal No.358 of 2000 has arisen, the claimant has admitted that though certain share in the well was there, it was not for the claimant, but was for his uncle.

10] In this view of the matter, in my view, reliance placed by learned Judge on the sale instance of village Talveli was not proper.

11] Hence, the following order :-

a] The appeals are allowed without any order as to costs.

b] The awards passed by the learned Jt. Civil Judge Senior Division, Jalgaon, impugned in each of the appeals, are hereby set aside. The respective Land Acquisition Reference Petitions are hereby dismissed.

c] The amount deposited, if any, in this Court by the appellants, be refunded to the appellants after a period of sixty days from the date of this order. The appeals are disposed of as such.

[M.T. JOSHI, J.]

kbp