

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 3637 OF 2013 IN
FIRST APPEAL STAMP NO.1923/2013**

- 1] The State of Maharashtra
Through The Collector,Latur .. APPLICANT/APPELLANT
[Orig.respondent]

Versus

- 1] Bharat s/o Dattoba Ghute
Age 40 years, Occu-Agril.
R/o Murud, Tq. & Dist.Latur
- 2] The Executive Engineer
Minor Irrigation,
Z.P.Latur .. RESPONDENTS
[Respondent No.1 Orig.claimant]
[Respondent No.2 Orig.respondent]

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**CIVIL APPLICATION NO. 3639 OF 2013 IN
FIRST APPEAL STAMP NO.1991/2013**

- 1] The State of Maharashtra
Through The Collector,Latur .. APPLICANT/APPELLANT
[Orig.respondent]

Versus

- 1] Narayan s/o Bhagwan Jadkar
Age 32 years, Occu-Agril.
R/o Murud, Tq. & Dist.Latur
- 2] The Executive Engineer
Minor Irrigation,
Z.P.Latur .. RESPONDENTS

[Respondent No.1 Orig.claimant]
[Respondent No.2 Orig.respondent]

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Shri G.R.Ingole,A.G.P. for applicants State
Shri A.M.Gholap, Adv. for respondent no.1.
Shri S.S.Manale,Adv. for respondent no.2.
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Shri G.R.Ingole,A.G.P. for appellants State
Shri A.M.Gholap, Adv. for respondent no.1.
Shri S.S.Manale,Adv. for respondent no.2.

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CORAM : N.W.SAMBRE,J.
DATED : 1st JULY, 2015

ORAL ORDER :-

Having heard learned A.G.P., and the learned counsel for the claimants, with consent, delay is condoned and the Appeals are taken up for final disposal at admission stage.

2] The land in question was acquired pursuant to Notification under Section 4 of Land Acquisition Act issued on 24/11/1988.

3] The land is situated at Murud, Tq., and Dist. Latur and was acquired for the purpose of construction of percolation tank.

4] The Land Acquisition Officer, pursuant to the

Award has offered Rs.150/- per Aar i.e. about Rs.6000/- per Acre.

5] The claimants-respondents feeling aggrieved thereby preferred Reference under Section 18 of Land Acquisition Act. The claimants demanded compensation of Rs.36,000/- per acre as according to them, the compensation awarded by the Land Acquisition Officer was very meager.

6] While submitting the claims and for justifying the enhancement of claim, the claimants have examined the witness Bharat at Exh.20 and relied upon the documents viz. certified copy of award dated 29/12/1990 at Exh.15, E-Statement at Exh.16, certified copy of sale deed dated 3/4/1982 at Exh.17 and the certified copy of 7/12 extract at Exh.18.

7] So far as present appellants are concerned, they have not led any evidence to counter the enhanced claim.

8] The Reference Court has allowed the claim petition by its Award dated 20/12/2007, as such present First Appeals.

9] The learned A.G.P. while questioning the legality of the enhancement granted by Reference Court, would

urge that enhancement as is ordered by Reference Court is at exorbitant rate and without any basis or supportive evidence. The learned A.G.P. would urge that the enhancement is six-fold and is not sustainable for want of any supportive evidence to that effect. According to him, the sale instance Exh.17 that is taken into account is of a small piece of land and cannot be equated with that of the land under acquisition. He would urge that the claimants have failed to substantiate any relativity with that of the land which was sold vide Exh.17 and the land under acquisition.

10] The learned counsel for the claimants in support of their contentions, has placed reliance upon oral evidence of witness P.W.1 so as to canvass that the document sale deed dated 3/4/1982 at Exh.17 was very much proved. According to him, the sale instance is of the year 1982 whereas, Section 4 notification in the present case was issued on 24/11/1988. According to the learned counsel for the respondent-claimants the Reference Court was sensitive and alive to the fact as regards the date of sale vide Exh.17 and the Section 4 notification that is of 1988 and has given sufficient latitude qua cost of the land. According to him, the appellant herein has neither examined any witness nor demolished the testimony of the witness so also documentary evidence Exh.17.

11] According to him, the Appeals are liable to be rejected.

12] With the assistance of learned A.G.P., and the learned counsel for the claimants, I have scanned the evidence and the observations made by learned Reference Court so as to analyse as to whether the enhancement as is rated to by Reference Court is justifiable or not.

13] It is required to be noted that the Land Acquisition Officer had awarded the compensation of Rs.150/- per Aar which is above Rs.6000/- per Acre. It is settled position of law that the Award made by Land Acquisition Officer is mere an offer to the land owner and as such, his right under Section 18 of Land Acquisition Act for enhancement is kept in tact.

14] Pursuant to the said right under Section 18, present land owners claimants/respondents have tried to substantiate their claim by virtue of the sale deed at Exh.17, certified copy of which was placed on record. Sale deed of the said land which pertains to Gat No.508 area 26½ guntha, was executed for consideration of Rs.24,600/- i.e. Rs.928/- per Aar.

15] So far as the above referred documentary evidence, which is brought on record is concerned, it is

required to be further noted that the 7/12 extract of the said land was also taken by Reference Court into account so as to find out fertility of the said land. Apart from above, the fact remains that the appellant acquiring body has not demolished said piece of evidence or has rather not examined any other evidence in support of their claim of unreasonable enhancement.

16] The Reference Court based on the said piece of evidence has reached to a conclusion and has awarded the enhancement at the rate of Rs.35000/- per Acre. The enhancement of Rs.35000/- per acre in my opinion is based on the cost of land as was agreed, which was sold in the year 1982. From the year 1982 till the date of Section 4 notification, the escalation of prices perhaps is not taken into account. Be that as it may, in absence of any counter claim, said aspect cannot be gone into details at this stage. In my opinion, the Award as is delivered by Reference Court does not call for any interference, as such Appeals stand dismissed.

(N.W.SAMBRE,J.)

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