

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.193 OF 2002

The State of Maharashtra,
through Special Land : ..Appellant
Acquisition Officer,
Aurangabad

V E R S U S

Mohammad @ Mohmood s/o. Sk.
Rasool, age Major, occ.
Agril., r/o. Village Karkin , :
Tq. Paithan, Dist.Aurangabad
(died through his Lrs.)

Noorbee Mohammad w/o.
Mohammad Sk. Rasul, Age 60
1) years, occ. r/o. Karkin, Tq.
Paithan, Dist.Aurangabad
(wife)

:

Sk. Sandu Sk. Mohammad Sk.
2) Rasul (Son), Age 40 years,
r/o. Karkin, Tq. Patithan,
Dist. Aurangabad

:

Rajiyabee Sk. Rafiq
3) (Daughter), Age 22 years,
r/o. Muram Pimpri, Tq.
Georai, Dist.Beed

:

- 4) Sk. Rashid Sk. Mohmmad (son),
Age 35 years, occ. r/o.
Karkin, Tq.Paithan, Dist.
Aurangabad

: ..Respondents

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Mr.S.G.Sangle, AGP for appellant – State

Mr.A.P.Bhandari, advocate for respondent nos.1 to
4

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CORAM : M.T. JOSHI, J.
DATE : FEBRUARY 17, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by the direction to pay the compensation greater than the compensation awarded by the Land Acquisition Officer, the State has present present first appeal.

3] 5 Hecter 24 Are land of village Karkin, Tq.Paithan, Dist.Aurangabad was acquired by the

State for the purpose of percolation tank. The notification under Section 4 of the Land Acquisition Act was published on 24th January, 1985. The Land Acquisition Officer awarded the compensation at the rate of Rs.150/- per Are for the dry crop land and Rs.225/- for the seasonal irrigated land. Aggrieved by the same, the reference application was filed by the respondent.

4] Before the reference court, the respondent relied upon three sale instances i.e. Exhibit 13 to Exhibit 16. Some of these sale instances were for 20 Are land. On the basis of these sale instances, the reference court found a mean price of Rs.325/- per Are. These sale instances were of year 1982 and the notification under Section 4 of the Act was of the year 1985. Therefore, considering the escalation in the prices of the commodities by 20%, the reference court held the market price at Rs.400/- per Are.

5] Learned AGP for the appellant submits that small pieces of lands were taken into consideration by the learned reference court. Further, the reference court wrongly awarded interest at the rate of 9% per annum from the date of taking possession of the lands i.e. 22nd September, 1983. He submits that it should have been from the date of the notification issued under Section 4 of the Act i.e. 24th January, 1985.

6] Mr.Bhandari, learned counsel for respondent nos.1 to 4 supports the reasoning of the learned reference court.

7] On the basis of this material, following points arise for my determination :-

a] Whether the compensation arrived at by the learned reference court represents the true market value ?

b] Whether there is no need to interfere with the rate of interest awarded by learned reference court ?

. My answers to the above points are in the affirmative and the appeal is, therefore, dismissed for the reasons to follow.

R E A S O N S

8] It is to be noted that four sale instances were relied upon by the respondents. The sale instance at Exhibit 15 was for 40 R land and same cannot be called as a small piece of land. The mean of the price of year 1992, on the basis of this sale instance, was arrived at Rs.325/- per Are and thereafter taking into consideration rise in the prices of immovable property, it was assumed at Rs.400/- per Are. Considering these

reasons, in my view, no defect can be found in the impugned award. Therefore, the compensation arrived at by learned reference court needs no interference.

9] As regards the interest granted at the rate of 9% per annum by the learned reference from the date of delivery of possession, it should be noted that otherwise also, the appellant – State was required to pay rental compensation as the possession was taken earlier to publication of the notification under Section 4 of the Land Acquisition Act. In the circumstances, no interference in the amount of interest is not required.

10] The appeal is therefore, dismissed without no order as to costs.

11] The respondents would be at liberty to withdraw the amount deposited, if any, either in this court or in the executing court.

[M.T. JOSHI, J.]

kbp