

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

40 FIRST APPEAL NO. 1011 OF 2003

STATE OF MAHA & ORS

VERSUS

LAXMIKANT SHANKARRAO NAIK

...

AGP for Appellant : Mr. S. P. Deshmukh

**Advocate for Respondent : Mr. Swapnil A. Deshmukh h/for
Mr. M S Patil**

...

CORAM : S. V. GANGAPURWALA, J.

DATE : 13th October, 2015

PER COURT :

1. Shop of the claimant admeasuring 8.36 sq. mtr. is acquired. The claim filed under section 18 of the land acquisition Act is partly allowed. Aggrieved thereby the state has filed the present appeal.

2. The learned AGP submits that the Reference Court, while enhancing the compensation amount, has relied on the valuation report Exhibit 27. The person who has valued the said report is not proved. The basis upon which the valuer has come to the conclusion that the premises is valued to Rs.51,300/- is not stated. No notice was issued to the appellant while making valuation of the said property.

3. According to the learned AGP, even Exhibit 34 i.e.

copy of the certified copy of the sale deed cannot form the basis for awarding the compensation amount. The Special Land Acquisition Officer has rightly awarded the compensation amount after considering all the relevant aspects of the matter.

4. I have gone through the judgment so also record and proceedings.

5. The expert, i.e. valuer has deposed before the Court to prove his valuation report in which he has valued the acquired property at Rs.51,300/-. Even sale deed in respect of shop in the premises of the same vicinity is considered, wherein property admeasuring 9.30 square meter is sold for Rs.45,000/-. In the present case, the area admeasuring 8.36 sq. mtr. is acquired for widening of the road from Mahadwar to Tulja Bhavani Temple of the State highway. Sale instance is in respect of the property in the same vicinity. The same can be relied. The Reference court has even deducted the amount from the valuers report. It has not accepted the valuers report in toto. The amount of Rs.9,792/- has been rightly deducted by the Reference Court. The Reference Court relied upon the sale instance, valuation report and has arrived at plausible conclusion.

6. The appellant has not led any evidence of experts or otherwise to show that valuer has not properly valued property or DSR rates were not properly applied. However, apart from report there is sale instance in respect of the property of the same vicinity. Property acquired is on the road. It is acquired for widening of the road.

7. Considering the aforesaid aspects of the matter, the Reference Court has properly awarded the compensation amount. As such, the first appeal is dismissed. No costs.

(S. V. GANGAPURWALA, J.)

JPC