

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

8 FIRST APPEAL NO. 358 OF 2012

SHEUBAI POPAT PAWAR AND ORS

VERSUS

THE STATE OF MAH AND ANR

...

Advocate for Appellants : Mr. Bhore K. S.

AGP for Respondents State: Mr. D. V. Tele

Advocate for Respondent No.2 : Mr. S. T. Shelke

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CORAM : S. V. GANGAPURWALA, J.

DATE : 22nd September, 2015

PER COURT :

1. The present appellants had filed reference under section 18 of the Land Acquisition Act, being dissatisfied with the amount of compensation awarded by the Special Land Acquisition Officer. The reference court partly allowed the said reference and awarded compensation @ Rs. 1 lakh per hectare. The present appeal is filed for further enhancement of compensation.

2. Mr. Bhore, the learned counsel for the appellants submits that the reference court came to the conclusion that the valuation of the land acquired is Rs.150,000 per hectare, but while passing the final order, awarded

compensation @ Rs. 1 lakh per hectare. The learned counsel submits that Exhibits 17, 18 and 19 are the exemplar sale deeds. Exhibit 17 is a sale transaction in respect of land ad-measuring 61 R. The same is Jirayat land, sold for consideration of Rs.1,24,000/-. The valuation would be more than Rs.2 lakh per hectare. Exhibit 18 is the sale instance of a land admeasuring 6 R, sold for Rs.3 lakh and Exh.19 is the sale instance in respect of 1 hectare 8 R land, sold for Rs.3 lakh. Learned counsel submits that all the sale instances are in respect of land situated in the same village as that of the acquired land. Learned counsel submits that highest exemplar has to be considered. According to the learned counsel, there was no impediment to award compensation @ Rs. 2 lakhs per hectare. Even the well is situated in the acquired land. The same has to be considered as bagayat land.

3. Mr. Tele, the learned AGP submits that the sale instances are in respect of small area of land. The lands are purchased by the company for commercial purposes. As such the same consideration amount cannot be considered. Exhibit 19 is rightly considered,

wherein the prices of land acquired would be Rs.1,50,000/- per hectare. Necessary deduction are also required to be made. According to learned AGP, the reference Court has considered all the aspects of the matter in its correct perspective.

4. I have considered the submissions and I have also gone through the record and proceedings.

5. Notification under section 4 of the Land Acquisition Act is dated 19th November, 1997. Exhibit 17 is dated 12th February, 1997. Exh.18 is dated 11.04.1997 and Exhibit 19 is dated 16th March, 1997. It is not disputed that lands under the sale deeds are situated in the same village as that of the acquired land. The Apex court has held that exemplar of the highest sale instance has to be considered, if it is proved that the same is appropriate exemplar and the transaction is bonafide one. In the present cases the respondents have not stepped into the witness box to suggest that the said transaction is not a bonafide transaction.

6. As far as Exhibit 18 is concerned, it is for a

very small area of 6 R of land which certainly cannot be said to be an exemplar sale deed. As far as Exhibit 17 is concerned, the same is @ 124,000/- for 61 R land and the sale deed Exh. 19 if considered, the same is @ Rs.1,66,600/- per hectare. In the present case, it appears that there is also well situated in the land acquired. It can be treated as a seasonally bagayat. Even if I consider the exemplar Exhibit 17, which is of a jirayat land the valuation would be about Rs. 2 lakhs per hectare. There would not be any impediment to award compensation @ Rs.2 lakhs per hectare. In the result, I pass the following order:

- i. It is held that the appellants/claimants are entitled for compensation of the acquired land @ Rs.2 lakhs per hectare. The respondents shall pay compensation to the appellant in respect of the acquired land @ Rs. 2 lakhs per hectare.
- ii. Save and except the modification, as referred to above, the rest of the benefits granted by the Reference Court are upheld and maintained.
- iii. First Appeal is accordingly disposed of.

(S. V. GANGAPURWALA, J.)