

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

FIRST APPEAL NO.: 190 OF 2004

The State of Maharashtra,
Through Collector, Osmanabad.

... **APPELLANT**
[ORIG.RESPONDENT]

VERSUS

Narayan Marga Kamble,
Age: Major, Occu. Agril.,
R/o: Omerga, Tq. Omerga,
Dist. Osmanabad.

... **RESPONDENT**
[ORIG. CLAIMANT]

Mr. D. V. Tele, A.G.P. for the Appellant.
Mr. M. D. Shinde, Advocate for the Respondent.

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CORAM:- T. V. NALAWADE, J.
DATED:- 17th NOVEMBER, 2015.

JUDGMENT:

1. The Appeal is filed against judgment and Award of L.A.R. No.178 of 1995 which was pending in the Court of Civil Judge, Senior Division, Osmanabad. Heard learned A.G.P.

2. The Reference was filed by present Respondent for enhancement of compensation awarded to him in view of the acquisition of his agricultural land bearing Survey No.45, admeasuring 1 Hectare, situated at Omerga. The

notification under section 4 of the Land Acquisition Act was published on 12th January, 1990 and the notification under section 6 of the Act was published on 22nd February, 1992. The Land Acquisition officer awarded the compensation at the rate of Rs.50,000/- per Acre. It is the case of the claimant that the market value of the land was much more than the value fixed by the Land Acquisition Officer. It is the case of the claimant that the Land Acquisition officer did not consider the amenities which the land was having like a well, pipeline, the bandhs, cattle shed and the Land Acquisition Officer did not give any compensation in respect of these amenities and trees which were present in the land. The price of Rs.1 Lakh per Acre was claimed and the cost of the well was claimed as Rs.1 Lakh. There was one cattle shed, according to the claimant and the cost of the construction of cattle shed and stone Pools, 3 in number, was also claimed.

3. The State opposed the application by contending that there was no well in existence and there were no such amenities in the land acquired. The rate claimed in respect of the land was also disputed by the Respondent, State.

4. Before the Reference Court only the claimant gave evidence. The Reference Court has granted compensation in respect of the well, the pipeline, the shed and the Bandhs. The rate is not enhanced and so the compensation in respect of the land is not enhanced.

5. For proving the claim, the claimant examined himself and he gave evidence that there was a well in the land, he had done the bunding, he had a cattle shed and he had laid the pipeline for irrigation and that pipeline was starting from the well. The evidence on the cost was given as per the contentions made in the claim. He examined one Ramchandra Baraskar, Government approved Valuer. Evidence is given by the valuer that he visited the land which was acquired by the Government on 20th May, 1991 and he made the assessment of the costs by using Government rates, D.S.R. rates for the year 1991-92. The report prepared by him is duly proved as Exhibit-27. The report shows that he considered the rates fixed by the Government for excavation of various kinds of materials, for lifting the material and for construction, masonry work. On that basis, he assessed the cost of the well as

Rs.88,100/-. In similar manner, he made the assessment of embankment, bandhs and he made the assessment in respect of the shed. The assessment in respect of cost of pipeline was also made on the basis of the value of the pipe and the amounts spent on laying the pipeline.

6. The claimant produced the revenue record like 7/12 extract showing that in the land one well was in existence right from beginning. As against this evidence, nothing is giving in rebuttal by the State Government. It is not disputed that for determining compensation, the cost of the well was not taken into consideration. In addition to that record, the claimant produced some record showing that he had registered his land with one sugar factory and he was taking sugarcane crop in this land. Bill, in that regard of the year 1986, was also produced.

7. It appears that the Land Acquisition Officer did not consider the existence of aforesaid structures in the land and compensation in respect of the aforesaid things was not given. There is evidence of Government approved Valuer on the cost of the aforesaid things and there is nothing in rebuttle. In view of the aforesaid record and the

circumstance that there is nothing in rebuttal the Reference Court has given compensation in respect of the cost of the well and other things. The Award given is in accordance with the valuation done by the aforesaid valuer. This Court sees no reason to interfere in the decision of the Reference Court.

8. In the result, appeal stands dismissed.

[T. V. NALAWADE, J.]

Dated:17/11/2015.
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