

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

FIRST APPEAL NO. 273 OF 2003

Rustam S/o Baburao Bankar,
Age : 40 Years, Occu. : Agril.,
R/o Butkheda, Tq. Jafrabad,
Dist. Jalna. .. Appellant

Versus

The Special Land Acquisition Officer,
Jalna .. Respondent

**WITH
FIRST APPEAL NO. 1051 OF 2003**

1. Sanjiv S/o Rustam Bankar,
Age : 36 Years,
2. Rajendra S/o Rustum Bankar,
Age : 34 Years, Occu. : Agril.,

Both R/o Butkheda, Tq. Jafrabad,
Dist. Jalna. .. Appellants

Versus

The Special Land Acquisition Officer,
Jalna .. Respondent

Shri V. C. Solshe, Advocate h/f Shri C. G. Solshe, Advocate for
the Appellant in both matters.

Shri D. V. Tele, A.G.P. for the Respondent in both matters.

CORAM : S. V. GANGAPURWALA, J.

DATE : 23RD SEPTEMBER, 2015.

ORAL JUDGMENT :

. In both these matters, the lands are situated in village Butkheda. The lands are acquired for percolation tank. The notification U/Sec. 4 of the Land Acquisition Act (for short "L.A. Act") was issued on 14.09.1989. In First Appeal No. 273 of 2003 the Reference Court has awarded compensation at the rate of Rs. 15,000/- per hector, whereas in First Appeal No. 1051 of 2003, the reference is dismissed on the ground that the land is jirayat one.

2. Mr. Solshe, the learned counsel for the appellant submits that, the Reference Court has failed to consider the sale instances filed on record vide Exhibit 15 and 16. It is for consideration of Rs. 10,000/- land admeasuring 20R is sold. The said sale deeds are executed in the year 1983 which is prior to notification U/Sec. 4 of the L. A. Act. Said sale deeds are erroneously discarded only on the ground revenue assessment of said lands is more. The learned counsel submits that, the said sale deeds are in respect of lands situated in the same village. Even the lands of the appellant in First Appeal No. 273 of 2003 is Bagayat land, wherein the land is irrigated by well water. The learned counsel submits that, even 10% increase per year ought to have been granted.

3. Mr. Tele, the learned Assistant Government Pleader submits that, the Reference Court considering the evidence on record had rightly come to the conclusion. No error has been committed by the Reference Court.

4. I have considered the submissions canvassed by the learned counsel for respective parties. So also gone through the record.

5. From the record I could not find that the lands under the acquisition were Bagayat lands. However, even if I consider the lands are Jirayat lands, sale instance vide Exhibit 15 and 16 can be considered while evaluating market value of the acquired land. The lands under sale deed are Bagayat lands. However were situated in the same village. Even if I consider the lands under sale deed are Bagayat lands and lands acquired as jirayat lands, still 50% of the amount of sale deed can be considered for determining the market value. In the sale deeds, the lands are sold at the rate of Rs. 20,000/- per acre. It would be about Rs. 50,000/- per hector. Even if I take 50% of the amount considering the acquired lands to be Jirayat lands, the valuation would be Rs. 25,000/- per hector. There was no impediment for the Reference Court to award compensation at the rate of Rs. 25,000/- per hector.

6. In the result the judgment and award passed by the Reference Court is modified. It is held that, the appellants in both these appeals are entitled for compensation at the rate of Rs. 25,000/- per hector. The statutory benefits as awarded by the Reference Court in First Appeal No. 273 of 2003 are upheld and the respondents would be liable to pay the said statutory benefits to the claimants in both these appeals. First appeals are partly allowed. No costs.

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/Sept. 15