

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

First Appeal No. 324 of 2004

The State of Maharashtra
Through Collector, Osmanabad.

.. Appellant.

Versus

Lakula S/o Ambaji Pandre
Age 52 years,
Occupation : Labour & Agriculture,
R/o Dabka, Taluka Omerga,
District Osmanabad.

.. Respondent.

Shri. V.H. Dighe, Assistant Government Pleader, for
appellant.

CORAM: T.V. NALAWADE, J.

DATE : 19th NOVEMBER 2015

JUDGMENT:

1) The appeal is filed to challenge the judgment and award of LAR No.329/1991 which was pending before the Joint Civil Judge Senior Division Osmanabad. The Reference Court has enhanced the compensation in a proceeding filed by present respondent under section 18 of the Land Acquisition Act. Heard learned Assistant Government Pleader. Other side did not turn up.

2) The Reference was filed by the present respondent to challenge the award of the Land Acquisition Officer by which compensation was determined by the Land Acquisition Officer in respect of house property of the present respondent. His house bearing village Panchayat No.79 from village Dabka, Tahsil Omerga was acquired for Turori Medium Project, one irrigation project. The house was situated on the area of 69.60 square meters and for this, compensation of Rs.16,540/- was awarded. Out of that basic compensation for value of the property was Rs 12,260/-. Enhancement of compensation by Rs.19,185/- was claimed.

3) It is the case of the respondent that his house was constructed in stone and cement material. He has given description of his house and he has contended that his house was of 11 *Khans Malwad* and there was additional structure of shed and there were structure of cattle shed and bath room. It is his case that walls of this house had the width of 3.5 ft. It is contended that acquiring body did not assess the value of the structure properly and due to that less compensation is paid to him.

He contended that the value of the construction was more than Rs.46,000/-. He had claimed more compensation of Rs.19,185/- on the basis of the value made by the valuer.

4) The present appellants contested the matter by filing written statement. They contended that compensation was calculated correctly. It was also contended that the compensation amount was collected by the present respondent without raising any protest and so the reference is not tenable.

5) To substantiate the claim, present respondent examined himself and he gave evidence as per the aforesaid contentions. The claimant had got assessed the value of the house through one Baraskar, a Government approved valuer. Said Baraskar was examined before the Reference Court and the report of the valuer is duly proved at Exhibit 26. He made assessment of the value of the house as Rs.44,250/-. The report shows that he considered relevant factors for making the assessment. He is Government approved valuer and he was in Military Engineering Services. His evidence shows that the area of

the construction was 69 square meters and there was open space of 38.40 square meters. His evidence is consistent with the case of the present respondent. He had prepared the map showing the structure of the house. Amount awarded is less than the valuation done by this witness.

6) As against the aforesaid evidence there is nothing in rebuttal from the present appellants. On the other hand the award shows that in all 46 houses were acquired and the valuation of all the houses was done together by the Land Acquisition Officer. This approach was not correct. All these circumstances are considered by the Reference Court and the claim of the present respondent is allowed. This Court sees no reason to interfere in the decisions given by the Reference Court.

7) In the result, the appeal stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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