

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 472 OF 1999

The State of Maharashtra,
through the Special Land
Acquisition Officer, Jalgaon

APPELLANT

VERSUS

Pandhari Pundalik Koli,
Age : 42 years, Occu. Farmer,
R/o Gondkhede, Tal. Jamner,
District Jalgaon

RESPONDENT

Mr. S.P. Daund, A.G.P. for the appellant/State
Mr. V.D. Gunale, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 13/01/2015

ORAL JUDGEMENT :

1. Heard learned A.G.P. for the appellant/State
and learned counsel for the respondent.

2. Aggrieved by the enhancement in the
compensation in a Reference under section 18 of the Land
Acquisition Act, the present appeal is preferred by the
State.

3. The land gat No. 93-2b, admeasuring 1 hectare

39 Ares plus 3 Ares waste land and land Gat No. 94, admeasuring 3 hectares and 28 Ares plus 18 Ares waste land were acquired by the State for the purpose of percolation tank of village Gondkhede. The notification under section 4 of the Land Acquisition Act was published on 26th October, 1987.

4. The Special Land Acquisition Officer had taken into consideration the sale instance of the period of three years prior to the date of issuance of the notification under section 4 of the Land Acquisition Act. The Special Land Acquisition Officer classified the lands in nine classes as per the the land revenue assessment and found that the present lands fall under the Class-II. In the circumstances, by comparing the classification of the lands, sold under the sale instance before him of the same period, he held that the market value of the land would be Rs. 11,500/- per hectare. Accordingly, the compensation was offered.

5. In the reference application, the respondent claimed compensation at the rate of Rs. 20,000/- per hectare with compensation of Rs. 200/- for waste land.

Besides the oral evidence, the respondent proved the sale instance at Exhibit-14. The sale instance was regarding the land of village Paldhi. It was dated 24th February, 1983. The learned Reference Court took into consideration the fact that the land under the sale instance and the land acquired are of the same quality in view of the certified copies of the 7/12 extracts filed on record regarding the sale instance. Further, the witness of the appellant i.e. Circle Inspector has also deposed that the lands of village Paldhi are about 5 kms. away from the acquired land. Therefore, the learned Reference Court has declared that the method adopted by the Special Land Acquisition Officer of granting the compensation on the assessment basis is unscientific. Hence, the compensation was enhanced to Rs. 52,307/- per hectare, on the basis of the said sale instance (Exh-14).

6. Learned A.G.P. for the appellant/State submitted that when there were sale instances of the same village, the learned Civil Judge Senior Division ought not to have considered the sale instance of the different village. Mr. V.D. Gunale, learned counsel for

the respondent, on the other hand, supported the reasoning of the learned Civil Judge Senior Division.

7. On the basis of above material and the submissions advanced on behalf of both sides, the following points arise for my determination:-

(I) Whether the award passed by the learned Civil Judge Senior Division represents the true market value of the acquired land ?

(II) What order ?

In my view, the award passed by the learned Civil Judge Senior Division represents the true market value of the acquired land and therefore, the present appeal is dismissed without any order as to costs, for the reasons to follow:

R E A S O N S

8. The award of the Special Land Officer would show that he has categorized the lands into nine classes

as per the revenue assessment. Thereafter, the sale instances were considered by him on the basis of said comparison. As against this, the respondent has placed reliance on the sale instance at Exhibit-14, which was three years prior to the date of issuance of notification under section 4 of the Land Acquisition Act. The Circle Inspector examined by the present appellant had also deposed in the cross-examination that the distance between two villages is only 5 kms. The certified copy of the 7/12 extract of the acquired lands as well as the land as represented by sale instance (Exhibit-14) showed that both lands were of similar quality. In that view of the matter, the reasoning forwarded by the learned Civil Judge Senior Division cannot be faulted with. Hence, the following order:-

9. The first appeal is hereby dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE