

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

FIRST APPEAL NO. 1479 OF 2013

**THE STATE OF MAH,THR. COLLECTOR, LATUR AND ANR
VERSUS
NARSING NAGNATH GURME**

...
Advocate for Appellants : Mr. S. G. Sangle, Asstt. Govt. Pleader

**WITH
FIRST APPEAL NO. 1480 OF 2013
WITH FA/1481/2013 WITH FA/1482/2013 WITH FA/1483/2013 WITH
FA/1484/2013**

**THE STATE OF MAH,THR. COLLECTOR, LATUR AND ANR
VERSUS
NAGA PANDA GURME**

...
Advocate for Appellants : Mr. D. V. Tele, Asstt. Govt. Pleader
Advocate for Respondents : Mr. S. G. Jadhavar

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CORAM : S. V. GANGAPURWALA, J.

DATE : 19th August, 2015

PER COURT :

1. Learned AGP submits that the land of respondents- claimant were acquired for percolation tank situated at village Lingdal. Learned AGP submits that the last notification under section 4 of the Land Acquisition Act was issued on 15.04.2003. Being aggrieved by the compensation awarded by the Special Land Acquisition Officer (SLAO), the claimants have filed Reference under section 18 of the Land Acquisition Act for enhancement of compensation. Reference court partly allowed the reference and awarded exorbitant compensation amount. The SLAO had classified the land as jirayat, seasonally bagayat and bagayat, wherein

compensation was awarded by the SLAO at the rate of Rs.65000/- per hectare, Rs.88,200 per hectare and Rs.97,900 per hectare respectively. The reference Court, by the impugned award under Section 18, granted exorbitant compensation @ Rs.1,60,289 and Rs.2,40,433/- per hectare.

2. Learned AGP submits that the land were not bagayat land as is held by the Reference Court. According to the learned AGP, only one sale instance that too of another village has been relied by the Reference Court., The Reference Court has not considered the distance between the acquired land and the land under the sale deed. The said land under sale deed was of a different village. The said land was sold for the purpose of poultry farm and the transaction was between near relatives and as such, it was erroneous on the part of the Reference Court to rely on the said sale deed. The learned AGP further submits that the SLAO, after considering land revenue record and various other sale deeds, has granted reasonable amount of compensation. The reference Court has exorbitantly enhanced the said amount. Even the claimants in their evidence had admitted that the land under sale deed is situated about 3 to 4 lands away from the land acquired.

3. Mr. Jadhavar learned counsel for the claimants submit that the court has not awarded compensation at the rate at which the land under sale deed at Exh.15 was sold. Much lesser amount has been awarded even in case of bagayat land. Learned counsel submits that the sale

instances is prior to the notification under section 4 and is of adjacent village which is not even at the distance of 100 to 200 feet.

4. With the assistance of the learned AGP and learned counsel for the respondents, I have gone through the record and proceedings, Judgment, sale instances and oral evidence.

5. The appellant has not led any oral evidence. The reference Court has given the details of the category of lands, after referring to 7/12 extract, the crop taken. The possession of land has been taken on 2nd of January 2001. Last notification under section 4 is dated 15.4.2003. Sale deed Exh.15 is prior to the said date. It has come in evidence that land under the sale deed is of adjacent village i.e. both the villages have a common boundary and in the evidence of one of the claimants, it has come on record that the said land is situated after 2 to 3 survey nos. of the acquired land. The land under the sale deed was sold for the purpose of poultry farm. If the land under the said sale deed is considered, 1.H 21R land was sold for Rs.4,00,000/-i.e. almost at the of Rs.3,30,000 per hectare. For a bagayat land, reference court has awarded compensation of Rs. 2,40,000/- per hectare, whereas for other land, it has awarded Rs.1,60,000/- per hectare. i.e. almost half the price of the said land. The said sale deed has been considered by the reference court in a proper manner. Even reasons are given by the reference Court in that regard. Total enhancement of compensation in each matter is in the range of

Rs.40 to 50 thousand.

6. Considering all the aforesaid aspects of the matter, the reference court has considered the evidence in a plausible manner. As such the appeals stand dismissed. Civil applications disposed of.

(S. V. GANGAPURWALA, J.)

JPC