

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

FIRST APPEAL NO. 145 OF 2004

1. The State of Maharashtra
Dist. Collector, Nanded

2. Spl. LAO (B&C), Nanded

**....Appellants.
(Ori. Respondents).**

Versus

Shankar s/o. Vikramji,
Age 32 years, Occu. Agril.,
R/o. Rahati, Tq. & Dist.
Nanded.

**....Respondents.
(Ori. Claimants)**

Mr. V.H. Dighe, AGP for appellants.

CORAM : T.V. NALAWADE, J.
DATED : 23rd November, 2015.

JUDGMENT :

1) The appeal is filed by the State to challenge the judgment and award of LAR No. 69/1991, which was pending in the Court of Civil Judge, Senior Division, Nanded, Reference Court. In the reference filed under section 18 of the Land Acquisition Act (hereinafter referred to as 'the Act' for short), the Reference Court has increased the compensation from Rs. 7,000/- per Acre and so, the decision is challenged by the original respondents/State.

2) Respondent Shankar was the owner of land Gat Nos.

206 and 204 situated at Rahati, District Nanded. Notification under section 4 of the Act was published in official gazette of 30.1.1986 and the acquisition was completed by award dated 8.6.1986. The portion of 95 R. of the respondent was acquired for Government project. It is the case of respondent that the compensation is not awarded by the Land Acquisition Officer as per the market rate which was prevailing in that village. It is contended that the land is situated at the distance of hardly 15 k.m. from Nanded and the village has all the facilities and village is connected with Nimgaon Railway Station. It is contended that the annual income of the claimant was more than Rs. 9,000/- from the land acquired and the value of the land is more than Rs. 1.6 lakh. Claim at the rate of 40,000/- per Acre was made.

3) The respondents contested the matter by contending that proper procedure was followed by the Land Acquisition Officer for determining the compensation. It was denied that the value of the land was around Rs. 40,000/- per Acre.

4) The claimant examined himself and he placed reliance on the sale instances. The first sale instance was of 26.11.1984 of 10 R. portion from the same village and this portion was sold for Rs. 4,000/-. The second sale instance was of

24.12.1985 and it was of 4 R. and this portion was sold for Rs. 2,000/-. The third sale instance was of 8.6.1986 i.e. post notification issued under section 4 of the Act and it was for 20 R. portion and the portion was sold for Rs. 15,000/-. The record of sale of sugarcane which was taken from this land was produced.

5) The reasoning given by the Reference Court and the record shows that the Land Acquisition Officer has relied upon the assessment of the land and on that basis, the price was fixed as Rs.7000/- per Acre. Sale instances were not considered. Thus, the approach adopted by the Land Acquisition Officer is not correct and he ought to have considered the sale instances. The Reference Court has considered the aforesaid sale instances and particularly, pre-notification sale instances issued under section 4 of the Act. On the basis of the price shown in the sale instances, the Reference Court has fixed the price as Rs. 18,000/- per Acre. The first sale instance of 1984 shows that the price was shown as Rs. 4,000/- for 10 R., Rs. 16,000/- per Acre. In such cases, atleast 10% hike needs to be given in the price per year and so, the price could have been fixed at more than Rs. 18,000/- per Acre on the basis of sale instances. In view of these circumstances, this Court holds that there is no possibility of interference in the decision given by the Reference Court.

6) In the result, the appeal stands dismissed.

[T.V. NALAWADE, J.]

SSC/