

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 487 OF 1999

1] Bhimaji Honaji Borhade

2] Sou. Shevantabai Honaji Borhade

3] Honaji Abaji Borhade

All are major, Occu. Agriculture,
R/o. Saikhindi, Tq. Sangamner,
Dist. Ahmednagar

.. Appellants

VERSUS

The State of Maharashtra

.. Respondent

Mr. S.K. Shinde, Advocate for the appellants
Mr. S.P. Daund, AGP for the respondent/State

CORAM : M.T. JOSHI, J.

DATE : 15/01/2015

ORAL JUDGMENT :

1. Heard both sides.

2. Aggrieved by the rejection of the reference application in the land acquisition compensation case, the present appeal is preferred by the original claimants. Four pieces of land, as is mentioned in the record, totally admeasuring 2 hectare and 23 R of village Saikhindi owned by the present appellants were acquired by the State for the purposes of construction

of a percolation tank. Notification under section 4 of the Land Acquisition Act was published on 23/2/1988. The Special Land Acquisition Officer has held all the lands as dry crop lands of 2nd type and, therefore, the compensation was offered by the Special Land Acquisition Officer at the rate of Rs.20,500/- per hectare.

3. The appellants claimed that the land was irrigated land. There were certain trees in the land and improvements were made by the appellants prior to the notification and, therefore, the compensation was claimed at the rate of Rs.3,40,424/-. The learned Civil Judge Senior Division held that the documentary evidence would show that the lands were dry crop lands. No improvement in the land was made by the appellant. Sale instances relied on by the appellants are not comparable to the acquired land and, therefore, no enhancement in the compensation was granted. However, taking into consideration the provisions of section 34 of the Land Acquisition Act, interest at the rate of 7% per annum was granted.

4. Mr. Shinde, learned counsel for the appellants submitted that when the compensation was paid towards

the well in the land by the Land Acquisition Officer, it could have been very well found by the learned Civil Judge Senior Division that the land was irrigated land. He further submitted that in fact the sale instances were of the lands of the same village and, therefore, the learned Civil Judge Senior Division ought to have believed the case of the appellants.

5. On the other hand, the learned A.G.P. supports the findings of the learned Civil Judge Senior Division.

6. On the basis of this material, the following point arises for my determination:-

I) Whether the compensation granted by the Special Land Acquisition Officer and as confirmed by the learned Civil Judge Senior Division represents the true market value of the land?

My finding to the aforesaid point is in the affirmative. The appeal is therefore dismissed without any order as to costs for the reasons to follow.

R E A S O N S

7. While the appellant no.1 orally deposed that the appellants were taking crops like sugarcane, vegetables i.e. irrigated crops, the certified copy of the 7/12 extract on the record would show that jirayat crops like bajra, mug and gram were grown. In the circumstances, the finding of the learned Civil Judge Senior Division in this regard cannot be faulted with. As regards the improvement made in the land, it was admitted by the appellant in the cross-examination that the bunds were not constructed by him but were constructed by the Soil Conservation Department of the State of Maharashtra and, therefore, there was no need to grant any compensation in this regard. The reasoning given by the learned Judge in this regard is sound.

As regards the sale instances produced on record while one of the sale instance is for 20R of land of another village Velhale the same was even purchased for housing purposes. The next of the sale instance for 62 R of land was of the very same village Saikhindi for irrigated land. In the circumstances, the learned Civil Judge Senior Division has rightly concluded that there cannot be comparison between the two sale instances and

the acquired lands.

8. In that view of the matter, no fault is found with the reasoning given by the learned Civil Judge Senior Division in the impugned judgment. The first appeal is therefore dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE

arp/