

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

First Appeal No.1331 of 2003

* The State of Maharashtra
Through Collector, Osmanabad. .. **Appellant.**

Versus

1) Malkappa Mohanappa Chaudhari,
Died, through is legal
representatives :

1A) Gangabai w/o Malkappa Chaudhari
Age 85 years,
Occupation : Household,
R/o Kader, Taluka Omerga,
District Osmanabad.

2) Babu Malkappa Choudhari,
Age 45 years,
Occupation : Agriculture
R/o As above.

.. Respondents.

Shri. G.O. Wattamwar, Assistant Government Pleader, for
appellant.

Respondents - served.

CORAM: T.V. NALAWADE, J.

DATE : 4th DECEMBER 2015

JUDGMENT:

1) The appeal is filed to challenge the judgment
and award of Land Acquisition Reference No.288 of 1991
which was pending in the Court of the Civil Judge, Senior

Division, Osmanabad. The Reference Court has enhanced the compensation in respect of the acquired land. Heard learned Assistant Government Pleader.

2) Present respondent was the owner of land Survey No.18/3 admeasuring 1H 69R. Two pieces admeasuring 82R and 62R were acquired by the present appellant. The Land Acquisition Officer gave total compensation of Rs.11,520/-. In the Land Acquisition Reference filed by the respondents they claimed amount of Rs.54,000/- i.e. additional amount of Rs.42,480/-. They contended that there was well in the adjacent land and they had irrigation facility and they were taking crops like sugarcane, wheat, vegetables. They contended that the land was situated at the distance of hardly 2 kms from highway. These circumstances were not considered by the Special Land Acquisition Officer.

3) Present appellant, State filed written statement and contested the matter. It was denied that there was irrigation facility and crop of sugarcane was taken by the claimant. It was contended that the Land Acquisition

Officer had followed correct procedure and the relevant factors were considered for ascertaining the market value.

4) Before the Reference Court, only owners gave evidence. Record was produced like 7/12 extract in respect of land Survey No.18/4 to show that the owner was having this survey number and there was well in this survey number. Substantive evidence was given that the owner was taking crops like vegetable, wheat, sugarcane etc. They placed reliance on some sale instances, Exhibits 32 and 33. One Dnyaneshwar Suryawanshi, who has purchased 27 R portion of land in the year 1986 was examined. This portion was purchased for consideration of Rs.17,000/-. It was the transaction of 4-4-1986. The transaction was pre-section 4 notification. He gave evidence that aforesaid land purchased by him is situated at the distance of one kilometer from the land of the claimant acquired for the project. He admitted that the land which he has purchased was convenient for him as it was irrigated land and it was adjacent to his land and so he gave little but higher price. These circumstances are considered by the Reference Court. The value of the land

under sale instance was Rs.25,000/- per acre and the claimant had claimed compensation at the rate of Rs.15,000/- per acre. Considering the nature of evidence given by the purchaser of the sale instance land, the Reference Court has held that market value of the claimant's acquired land was Rs.13,000/- per acre. As there was nothing in rebuttal and the Special Land Acquisition Officer's award shows that he had done grouping on the basis of land revenue and as per quality, this Court holds that it is not possible to interfere in the decision given by the Reference Court. There is mention in the award of the Special Land Acquisition Officer that he considered some sale instances but those sale instances are not specifically quoted in the award. As per the Reference Court there was nothing in rebuttal. This Court holds that it is not possible to interfere in the decision.

5) The appeal stands dismissed.

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

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