

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.  
BENCH AT AURANGABAD.  
Civil Appellate Jurisdiction.**

**FIRST APPEAL NO. 903 OF 2003  
WITH  
CIVIL APPLICATION NO.8408/2004 IN X-APLST/3652/2004.**

**WAKTYA MUKUNDYA.  
VERSUS  
THE STATE OF MAHARASHTRA & OTHERS.**

**Appearance      =>**

Mr. S.V. Mundhe, Advocate for the Appellant.

Mr. D.V. Tele, Additional Government Pleader for the State.

**CORAM      :      S.V. Gangapurwala, J.**

**DATE        :      8<sup>th</sup> October, 2015.**

**Per Court :-**

Present Applicant being dis-satisfied with the amount of compensation awarded by the Special Land Acquisition Officer, filed L.A.R. No.157/1992 under Section 18 of the Land Acquisition Act. The Reference Court has partly allowed the said Land Reference Application on 15<sup>th</sup> April, 1995. The Appeal is preferred for further enhancement in the compensation amount. The State has also filed Cross Objection challenging the Award passed by the Reference Court.

**[2]**        Heard Mr. Mundhe, learned counsel for the Appellant and Mr. D.V. Tele, learned Additional Government Pleader for the State of Maharashtra.

[3] Mr. Mundhe, learned counsel submits that, two sale deeds were produced on record at Exhibit No.s. 19 and 20 in respect of the land sold from the same village as that of the acquired land. Exhibit - 20 was @ Rs.5700/- per acre. Said sale deed is of the year 1971. Notification under Section 4 of "the Act" is dated 20/03/1974. 10% addition ought to have been made. Instead of that, the Reference Court has deducted 20% of the amount from the consideration of the said sale transaction, to arrive at market rate. According to the learned counsel, there was no reason to deduct the said amount.

[4] The learned Additional Government Pleader submits that, the said sale transaction is in respect of land of different village as such, 20% deduction has been rightly meant. According to the learned Additional Government Pleader in fact, the sale transaction could not be considered being of different village. He submits that the Special Land Acquisition Officer has rightly awarded the compensation amount hence, Cross Objection of the State needs to be allowed.

[5] I have considered the submissions made and also gone through the Record & Proceedings.

[6] It is submitted by the learned counsel for the Appellant that all the lands from the village Gadibori, Taluka - Kalamnuri, District – Parbhani have been acquired and as such, there are no sale transaction of the said village. Sale transaction relied is of village Imampur which is adjoining village.

[7] Evidence of claimant shows that, said village is adjoining to the village from where the lands have been acquired. Sale transaction Exhibit - 20 shows that land is sold @ Rs.57/- per Are. Said sale transaction is of the year 1971. Notification under Section 4 of "the Act" is of the year 1974. 10% addition can be made however, considering the fact that, said sale transaction was of different village, I am not giving the said benefits to the claimant and would consider the price of the land sold for arriving at market value. In the result, I pass the following order :-

**ORDER**

- (i) Impugned Judgment and Award of Reference Court is modified.
- (ii) It is held that, the Applicant - Claimant is entitled for compensation @ Rs.14200/- per hecter.
- (iii) The Respondents shall pay compensation amount to the claimant alongwith all statutory benefits, as awarded by the Reference Court.
- (iv) First Appeal and Cross Objections accordingly stands disposed of.

**(S.V. GANPURWALA, J.)**