

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

First Appeal No.1377 of 2003

- 1) The State of Maharashtra
Through Collector, Jalna.
- 2) The Special Land Acquisition
Officer, Minor Irrigation Works, Jalna.
- 3) The Executive Engineer,
Minor Irrigation Division,
Buldhana,
C/o Executive Engineer,
Mhasrool Minor Irrigation
Division No.3, Chikli,
Taluka Buldhana, District Buldhana. .. **Appellants.**

Versus

- * Sheshrao S/o Shankar Bhale,
Age Major,
Occupation : Agriculture,
R/o Padmavati,
Taluka Bhokardan, District Jalna. .. **Respondent.**

Shri. S.Y. Mahajan, Assistant Government Pleader, for
appellants.

Shri. S.B. Joshi, Advocate, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 1st DECEMBER 2015

JUDGMENT:

- 1) The appeal is filed to challenge the judgment
and award of Land Acquisition Reference No.74/1997

which was pending in the Court of the Civil Judge, Senior Division, Jalna. In the Reference filed by the present respondent, the compensation in respect of land acquired is increased from Rs.290/- per R to make it to Rs.600/- per R and so the Government has challenged the judgment and award. Both the sides are heard.

2) The land admeasuring 1H 64 R from Gat No.386 of village Padmavati, Tahsil Bhokardan, District Jalna is acquired for Mhasrool project. The notification under section 4 of the Act was published in official gazette on 28-1-1993. It was contended that the method adopted by the Land Acquisition Officer to determine market value was not proper as he tried to consider the data collected by Town Planning Department and he has not considered the annual yield capitalization method when other material like sale instances available for determination of market value. It is the case of the owner that the value of his land was at least Rs. One lakh per acre at the relevant time i.e. Rs.2500/- per R.

3) The State Government opposed the proceeding by filing written statement. The State contended that proper method was adopted and some sale instances were also considered by the Land Acquisition Officer for determining the market value.

4) Before the Reference Court the claimant examined himself and he produced record like 7/12 extract and copies of sale instances of Padmavati of 1992. There are three sale instances like one dated 10-8-1992 which was of bagayat land and under which 20 R portion was sold for Rs.19,500/-. The second sale instance was also of Padmavati dated 6-8-1992 and it was for 20 R and it was sold for consideration of Rs.27,500/-. The third sale deed was of 22-1-1992 which was of 40 R and it was for Rs.45,000/- but it was from village Walsangi. Copies of decision given by the Reference Court in other matters like LAR No.100/1996 were produced. It was in respect of land Gat Nos.388 and 389 situated at village Padmavati. In that proceeding the rate of Rs.900/- per R was given. Similarly in LAR No.212/1996 which was in respect of land acquired for the same project from the same village

and the rate of Rs.900/- was given. Some witnesses are examined by the owner to prove that his land was irrigated and it was of good quality.

5) As against the aforesaid evidence, the Land Acquisition Officer is examined by the respondents and he has given evidence that he considered the quality of the land, crop statement and he also considered sale instances. This evidence is very vague. From the oral evidence and the award prepared it is difficult to ascertain the factors which were really considered by him.

6) The Reference Court has considered the aforesaid sale instances and oral evidence. It appears that the acquired land was situated on the bank of the river and other lands which were acquired were also situated on the bank of the same river. The 7/12 extract shows that the owner of the acquired land had right to take water from land Gat No.390. It appears that the Land Acquisition Officer gave value of the well also as Gat No.390 was also acquired. This circumstance ought to have been considered for ascertaining the market value of

the present land by the Land Acquisition Officer but that was not done. In any case the Reference Court has not considered the aforesaid material when it could have been considered. The rate of Rs.600/- per R is given by the Reference Court. In view of this, it is not possible to interfere in the decision given by the Reference Court. In the result, the appeal stands dismissed.

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

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