

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.6063/2015

IN

REJECTED CASE NO.1396/2014

WITH

C.A.6008/2015 IN FAST 5725/2014;

C.A.6010/2015 IN FAST 5725/2014;

C.A.6012/2015 IN FAST 5748/2014;

C.A.6013/2015 IN FAST 5748/2014;

C.A.6015/2015 IN FAST 5752/2014;

C.A.6016/2015 IN FAST 5752/2014;

C.A.6017/2015 IN FAST 5755/2014;

C.A.6018/2015 IN FAST 5755/2014;

C.A.6019/2015 IN FAST 5762/2014;

C.A.6020/2015 IN FAST 5762/2014.

The State of Maharashtra & another.

...Applicants..

Appellants

Versus

Pandurang Pujaji Lokhande,
died, through L.Rs. Yashodabai
Pandurang Lokhande & others.

...Respondents...

.....

Shri G.R. Ingole, AGP for applicants / appellants.

Shri A.B. Kale, Advocate for respondents.

.....

CORAM: N.W. SAMBRE, J.

DATE: 07.07.2015

ORDER :

1] These are applications for condonation of delay and for setting aside the order of refusal of registration dated 7.10.2014.

2] Since the applications are not objected, the applications stand allowed in terms of prayer clauses (B) and (C).

3] With the consent of learned counsel appearing for the parties, the appeals are taken up for final disposal at the stage of admission.

4] All these appeals are arising out of the references decided by 2nd Joint Civil Judge, Senior Division, Aurangabad, in Reference Cases Nos.12/2007, 15/2007, 16/2007, 18/2007, 20/2007 and 21/2007.

5] The facts as are necessary for deciding the present appeals are as under:

a] The respective lands of the respondents – claimants, which were located at Mauje Pangari Tq.Sillod Dist.Aurangabad were acquired by the acquiring body alongwith fruit bearing trees, well,

- 3 -

and other accessories, etc. for the purpose of construction of percolation tank.

b] Notice u/s 4 of the Land Acquisition Act came to be issued on 13.3.2003 and notice u/s 12(2) was given on 19.4.2006. Possession of the lands in question was taken on 2.4.2001, whereas the award u/s 11 was delivered on 4.10.2005.

c] The claimants preferred above referred references u/s 18 seeking enhancement on the ground that the awards delivered by the Land Acquisition Officer awarding an amount of Rs.570/- per Aare was meager and according to them, the Land Acquisition Officer has not taken into account the other facilities attached to the lands, such as seasonal irrigation, fruit bearing trees etc.

d] Considering the evidence that was brought on record, the Tribunal has proceeded to enhance the compensation from Rs.570/- to Rs.1200/- per Aare except in Reference Case No.20/2007, wherein the land was decided to be dry crop land and award of compensation at Rs.800/- per Aare came to be declared.

- 4 -

e] Admittedly, the claimants have not preferred any appeal against the above referred awards seeking enhancement.

f] In addition to the enhancement granted by the Reference Court, it has also awarded adequate compensation for fruit bearing trees.

6] The learned Assistant Government Pleader, while questioning the legality and validity of the awards delivered by the Reference Court would urge that the Reference Court has taken into account the evidence which has no relativity with the lands acquired. He would further urge that while calculating the market value of the lands in question, the authority has already taken into account the valuation of the fruit bearing trees and as such the Reference Court ought not to have granted enhancement. In support of his contentions, he has taken me through the observations made by the learned Tribunal.

7] Shri A.B. Kale, learned counsel for the claimants would urge that the awards of the Tribunal are based on the sale instances from the same village adjoining to the lands under acquisition. He supports the awards and seeks dismissal of the first appeals.

8] The learned Reference Court, having regard to the claims put forth before it, has framed the issue as to the entitlement of the claimants for enhancement. It is required to be noted that while considering the grant of enhancement, the claimants have placed on record certain documentary evidence such as 7/12 extract (Exhibit 31), 7/12 extracts (Exhibits 18, 25 & 31) so as to demonstrate the fertility of the lands. It is also required to be noted that the said documents were also relied upon so as to demonstrate the seasonal irrigation facility.

9] In order to substantiate the enhancement, the claimants have also relied upon the sale instance i.e. Exhibit 26. The said sale instance since was from the other village i.e. village Ambhai, the same was discarded by the Reference Court.

10] The learned Reference Court then proceeded to consider another sale instance dated 24.7.2000, which was in relation to the seasonal irrigated land admeasuring 45 Aares. The said land was situated in the same village from which the lands in question were acquired. The Tribunal then has taken a note of the fact that the said

- 6 -

transaction took place on 24.7.2000 whereas notification u/s 4 was issued subsequently after two years. As the said sale instance appeared to be relevant and there could be an inference of proximity of the land covered under the sale instance to that of the lands under acquisition, the Tribunal has proceeded to enhance the compensation from the one that was offered by the Land Acquisition Officer. In my opinion, the sale instance dated 24.7.2000 that was taken into account by the Tribunal was duly established at Exhibit 25 and the Tribunal as such has proceeded to enhance the compensation, which in my opinion is just and proper and is based on the cogent evidence.

11] So far as award of compensation for the fruit bearing trees is concerned, the Tribunal has taken into account the evidence of the expert Shri V.K. Patil, who was examined at Exhibit 28. Apart from above, the revenue entries for the fruit bearing trees on the lands under acquisition were also taken into account by the Tribunal and as such it has proceeded to award the compensation.

12] In my opinion, the awards delivered by the

- 7 -

Reference Court are based on the documentary and oral evidence so also the expert's evidence. No case for interference is made out. The appeals being sans merits stand dismissed. There shall be no order as to costs.

(N.W. SAMBRE, J.)