

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL (ST.) NO. 7880 OF 2015

1) The State of Maharashtra,
Through The Special Land Acquisition Officer,
Jayakwadi Project-1, Aurangabad

2) The Executive Engineer,
Minor Irrigation Division,
Aurangabad

...APPELLANTS
(Orig. Respondents)

VERSUS

1) Bapurao Radhakisan Gavandar,
Age: Major, Occu. Agril.

2) Vaijinath Radhakisan Gavandar,
Age: Major, Occu. Agril.

3) Sominath Radhakisan Gavandar,
Age: Major, Occu. Agril.

4) Vishnu Radhakisan Gavandar,
Age: Major, Occu. Agril.

5) Badrinath Radhakisan Gavandar,
Age: Major, Occu. Agril.

6) Walmik Radhakisan Gavandar,
Age: Major, Occu. Agril.

All R/o. Lohagad Nandra,
Tq. Phulambri, Dist. Aurangabad

...RESPONDENTS
(Orig. Claimants)

Mr G. R. Ingole, Asstt. Govt. Pleader for appellants State;
Mr A. B. Kale, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 14th July, 2015

ORAL ORDER :

Heard.

2. With the consent of the parties, the appeal is taken out for final disposal at the stage of admission.

3. All the appellants, who are independently owners of 90 R land each, appear to be real brothers. The land out of Gat No.38, to the extent of 5 Hectares and 42 R, was acquired for the purpose of construction of percolation tank at village Lohgad Nandra, Taluka Phulambri.

4. The possession of the land was taken on 16th May, 2004, against which notification under section 4 of the Land Acquisition Act was issued on 22nd December, 2006.

5. The award came to be declared on 17th March, 2010, whereby the land in question was considered to be a dry crop land and compensation of Rs.760/- per R was awarded by the Land Acquisition Officer.

6. Being aggrieved by inadequacy of compensation, the respondents-claimants preferred Land Acquisition Reference No.574 of 2010, seeking enhancement of compensation at the rate of Rs.2,500/- per R. So as to substantiate the claim, the respondents-claimants have brought on record that the acquired land was being irrigated through the well water. In

addition to above, the respondents-claimants have stated that they were cultivating the land in question with the help of irrigation facility and were drawing income to the tune of Rs.50,000/- to Rs.60,000/- per Acre. It is further claimed by the claimants that at the relevant time, the price of the land in the village was Rs.3,000/- to Rs.5,000/- per Are.

7. Appellant no.2 – acquiring body proceeded *ex parte* and appellant no.1 filed its written statement at Exh.15 denying the claim of the respondents.

8. The Reference Court, while considering the claim, has framed an issue and noticed that the enhancement is required to be granted.

9. The Reference Court, while dealing with the claim, has considered the sale instances at Exh.10, which is for 20 R land, which was sold at Rs.31,000/-, i.e. Rs.1,550/- per R and Exh.11 is for 15 R land, which was sold at Rs.23,000/-, i.e. Rs.1,533/- per R. Both the sale deeds are registered on 27th January, 2004. The Reference Court noted that the price of the land which is on higher side is required to be considered and as such, proceeded to award the compensation in question.

10. The Reference Court has taken into account the sale deed at Exh.10, wherein the rate of the land is on higher side and has proceeded

to award the compensation.

11. In the cross-examination of the claimants, nothing was elicited on behalf of the appellants. Appellant no.2 remained dormant by not appearing in the matter.

12. The enhancement of compensation granted by the Reference Court is based on cogent evidence.

13. In the light of above, no case for interference is made out. No illegality or irregularity is noticed the impugned judgment and award. Thus, the appeal fails and stands dismissed with no order as to costs.

14. In view of dismissal of the appeal, Civil Application No.5814 of 2015 does not survive and stands disposed of.

(N.W. SAMBRE, J.)

amj