

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.93 OF 2015

1. The State of Maharashtra,
Through – The Special Land
Acquisition Officer,
Aurangabad
 2. The Executive Engineer (Irrigation),
EGS Division, Aurangabad
- ..APPELLANTS
(Ori. Respondents)

VERSUS

1. Ambadas Laxman Gaikwad,
Age-43 yrs., Occu.Agril.,
2. Pundalik Laxman Gaikwad,
Age : 41 yrs., Occu.Agril.,
3. Ramdas Laxman Gaikwad,
Age : 37 yrs., Occu.Agril.,
4. Umaji Laxman Gaikwad,
Age : 32 yrs., Occu.Agril.,
5. Nanubai Laxman Gaikwad,
Age : 60 yrs., Occu. Household,
(Died – Through L.Rs.)
- 5a. Ambadas Laxman Gaikwad,
Age : Major, Occu.Agril.,
- 5b. Pundalik Laxman Gaikwad,
Age : Major, Occu.Agril.,
- 5c. Ramdas Laxman Gaikwad,
Age : Major, Occu.Agril.,
- 5d. Umaji Laxman Gaikwad,
Age : Major, Occu.Agril.,

- 5e. Sumanbai Prabhat Nikam,
Age : Major, Occu.Agril.,
6. Malanbai Ambadas Gaikwad,
Age : 37 yrs., Occu. Household,
7. Rukhmanbai Pundalik Gaikwad,
Age : 35 yrs., Occu. Household,
8. Yeshodabai Ramdas Gaikwad,
Age : 32 yrs., Occu. Household,
9. Radhikabai Umaji Gaikwad,
Age : 28 yrs., Occu. Household,

All R/o Ganori, Tq. Phulambri,
Dist. Aurangabad

..RESPONDENTS
(Ori. Claimants)

Mr P.P. More, Asstt. Govt. Pleader for appellants;
Mr A.B. Kale, Advocate holding for Mr N.R. Thorat, Advocate for
respondents

CORAM : N.W. SAMBRE, J.

DATE : 22nd July, 2015

ORAL ORDER :

The appeal, which is already admitted, is listed today for hearing on an application for permission to withdraw the amount deposited by the acquiring body.

2. With the consent of the respective Counsel, the appeal itself is taken out for final disposal, at this stage.

3. This appeal is directed against the judgment and award dated 7th March, 2012, rendered by the 6th Joint Civil Judge Senior Division, Aurangabad, in Land Acquisition Reference No.236 of 2000.

4. The acquiring body had issued notification under section 4 of the Land Acquisition Act on 24th February, 1994 and notification under section 6 on 25th May, 1995. An award under section 11 of the Act came to be declared on 30th January, 1996.

5. The claimants-land owners, feeling aggrieved by the amount of compensation offered by the Land Acquisition Officer, preferred Reference under section 18 of the Land Acquisition Act before the Civil Court, seeking enhancement of compensation to the tune of Rs.3,000/- per Are.

6. So as to substantiate the claim for enhancement of compensation, the respondents/claimants submitted that the land in question is an irrigated land and as such, relied upon the sale instances at Exhs.23 and 24 along with crop statement and irrigation facility available to the land under acquisition. The respondent no.1-claimant has examined himself in support of the claim, whereas the appellant – acquiring body has not examined any witness so as to discard his evidence/testimony. It is required to be noted that for the purpose of establishing enhancement of compensation to the tune of Rs.3,000/- per Are, respondents-claimants

have filed certified copy of the award (Exh.22) and 7/12 extract of the acquired land (Exh.25), to establish the cropping pattern. Apart from above, the respondents-claimants have relied upon the sale instances at Exhs.23 and 24, which according to them, were relevant for the purpose of granting enhancement as claimed. The land sold under Exh.24 was 30 Ares seasonally irrigated land for a consideration of Rs.50,000/-. So far as Exh.23 is concerned, vide said sale deed 50 Are land was sold for Rs.1,10,000/-. It was brought on record by the respondents-claimants that the said sale instances are required to be relied upon, to which there was no counter by the present appellants.

7. It is further required to be noted that the Reference Court, while dealing with the claim for enhancement, has noted that the land which was sold under sale instance Exh.23 was seasonally irrigated, whereas the land acquired in the present matter was irrigated. While analyzing sale instance Exh.24, pursuant to section 51-A of the Land Acquisition Act, the Reference Court noted that as the said sale instance was of much lower value, the same was not taken into account.

8. Learned Asstt. Govt. Pleader appearing on behalf of the appellants, while assailing the order of enhancement, would urge that for discarding the evidence produced under Exh.24 by the respondents-claimants, no sufficient reasons are recorded by the learned Reference Court. While

examining the above referred submission, it is required to be noted that both the sale instances, i.e. Exhs.23 and 24 were duly taken into account by the learned Reference Court. The sale instance which has direct relevance to the land under acquisition appears to have been taken into account, which is permissible in the light of the judgment of the Apex Court.

9. The enhancement of compensation awarded by the Reference Court, in my opinion, is based on the sale instances which were rightly appreciated by the learned Reference Court.

10. In that view of the matter, the present appeal being devoid of merits stands dismissed with no order as to costs.

(N.W. SAMBRE, J.)

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