

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

**CIVIL APPLICATION NO. 6375 OF 2012
WITH
CIVIL APPLICATION NO. 6376 OF 2012
IN/WITH
FIRST APPEAL (ST) NO. 11138 OF 2012**

1. The State of Maharashtra
Through the Collector, Latur.
2. The Additional Collector,
Earth Quake Resettlement,
Latur, Dist. Latur.
3. The Special Land Acquisition Officer,
(Swarna Project) at Latur. ...Appellants

versus

Shankar s/o Ganpati Bhujbal (died)
Through his L.Rs.

1. Smt. Bhagirathi w/o Shankar Bhujbal,
Age: 80 years, Occ: Household,
2. Dagadu s/o Shankar Bhujbal,
Age: 35 years, Oc: Agri.,

R/o. Gotewadi, Tq. Ausa,
Dist. Latur. ...Respondents

.....
Mr. G.R. Ingole, A.G.P. for applicant/appellant
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CORAM : N.W. SAMBRE, J.

DATE : 27th JULY, 2015

ORAL ORDER :

Heard learned A.G.P. for appellant/State.

2. For the reasons stated in the application, delay of 1870 days caused in preferring the first appeal stands condoned. The civil application is allowed.

3. The appeal is taken out for final disposal at admission stage.

4. The acquiring body and the State Government have questioned the judgment delivered by 3rd Adhoc District Judge, Latur on 04/12/2006 in exercise of powers under Section 18 of the Land Acquisition Act (hereinafter shall be referred to as 'the Act' for the sake of brevity) granting enhancement for the land to the extent of Rs.1000/- per Are from Rs.45,084/- per Hector.

5. According to learned A.G.P., while granting enhanced compensation, the Reference Court has placed reliance on the sale instances, which have no close proximity to the land under acquisition. According to him, in view of above error on the part of the Reference Court, the enhanced compensation is ordered to be paid to which the respondents-claimants were not entitled.

6. In the back ground of above referred submissions, this

Court has proceeded to consider the evidence which is available on record for the purpose of considering enhancement of compensation as is ordered in the present case.

7. Admittedly, the land in question was acquired pursuant to the notification issued under Section 4 of the Act on 25/12/1997, which was followed with award on 24/02/1999 under Section 11 of the Act. The land in question was acquired for the purpose of resettlement of the villagers and for the purpose of extension of existing Gaothan for such resettlement. The land admeasuring 1 Hectore 2 Ares situated at Gotewadi, Taluka Ausa, District Latur is acquired and the Land Acquisition Officer offered compensation @ Rs.45,084/- per Hectore.

8. The claimants-respondents sought enhancement to Rs.1,50,000/- per Acre.

9. So as to substantiate the enhancement, the claimants have sought to rely upon certain sale instances, advanced case of non agriculture potentiality of land under acquisition.

10. The appellant herein resisted the claim by filing written statement, however, admittedly has not examined any witness in

support of their claim for demolishing the case for enhancement.

11. Before the Reference Court, the claimants have adduced evidence at Exhibit-20 and relied upon the 7/12 extract at Exhibit-23, certified copies of award, village map at Exhibit-27 and sale instances at Exhibits-28 and 29.

12. The Reference Court then has proceeded to analyze the entire set of evidence that was brought on record, both in the form of oral and documentary evidence and has proceeded to award enhancement @ Rs.1000/- per Are.

13. From the judgment, it depicts that in view of the acquisition of land for the purpose of resettlement/extension of Gaothan, non agriculture potentiality of land in question should be taken into account. Apart from village map which was produced at Exhibit-27 with an intention to demonstrate that proximity of land under sale instances at Exhibits-28 and 29 which were not straight way relied upon in view of the fact that sale instances at Exhibits-28 and 29 are in relation to the land which are situated to some other village, which should not be established by virtue of map which was placed on record at Exhibit-27.

14. Exhibits-28 and 29 are sale instances for the area 1 Hector 38 Are (half share in the well) which was sold on 4/04/1992 for consideration of Rs. 1,79,500/- which is admittedly from adjacent village. So far as other sale instance is concerned, the land @ Rs.1800/- per Are was sold.

15. The Reference Court then has proceeded to do some guess work as is permissible in view of the judgment of the Apex Court and also by using his common sense in the back ground of law laid down by the Apex Court in the matter of ***Chimanlal Hargovinddas vs. Special Land Acquisition Officer, Poona*** reported in ***A.I.R. 1988 SC 1652*** has analyzed and inferred the cost of acquired land @ Rs.1000/- per Are.

16. The enhancement of Rs.1000/- per Are ordered by the Reference Court is based on considerations of evidence on record, non agriculture potentiality of land in question and from the enhancement it could easily inferred that the land which has non agriculture potentiality was acquired @ Rs. 1/- per sq. ft.

17. In my opinion, the enhancement ordered by the Reference Court as against offered by the Land Acquisition Officer is just and proper, cannot be termed as one which is at exorbitant rate.

The appeal fails, same stands dismissed.

18. In view of the dismissal the first appeal, civil application for stay stands disposed of.

[N.W. SAMBRE, J.]

Tupe/27.07.15