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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.7738/2015

IN

FIRST APPEAL NO.1452/2014

Padmakar Ramrao Kulkarni & another.
...Applicants..

Versus

The Executive Engineer,
M.S.E.D.C.L., Osmanabad & another.
...Respondents...

.....

Shri D.R. Jayabhar, Advocate for applicants.

Shri Dhananjay P. Deshpande, Advocate for respondent no.1.

Shri G.R. Ingole, AGP for respondent no.2.

.....

CORAM: N.W. SAMBRE, J.

DATE: 17.07.2015

ORDER :

1] Heard learned counsel for the parties. With their consent, the appeal itself is taken up for final disposal.

2] The acquiring body, who was respondent no.2 to the Land Acquisition Reference No.811/2004, has preferred present First Appeal questioning the enhancement ordered

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by the Reference Court enhancing the compensation to Rs.1500/- per Aare from the one offered by the Land Acquisition Officer i.e. Rs.600/- per Aare.

3] In the present case, the land in question was acquired by the respondent no.1 herein for installation of 33 KV Sub-Station.

4] The enhancement is questioned by the acquiring body on the ground that the enhancement is exorbitant and without considering the evidence available on record.

5] So as to substantiate the contention referred above, learned counsel Shri Dhananjay P. Deshpande has taken me through the evidence that was discussed by the Reference Court while enhancing the compensation. According to him, though the claimants have relied upon saledeeds - Exhibit 34 dated 16.2.1998 which is for one and half Aares land out of Block No.185 for consideration of Rs.6,000/- per Aare, Exhibit 35 dated 21.8.1998 for two Aares land which was sold at Rs.6,000/- per Aare, Exhibit 36 dated 9.7.1999 for one Aare land for consideration of Rs.5,000/- per Aare, were incorrectly ignored. According to him, the learned Reference Court while enhancing the compensation has not taken into account the nearest sale

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instance of the date of Section 4 notification, but has proceeded to consider the other sale instances which are of higher value.

6] So far as above referred contention of Shri Deshpande is concerned, it is required to be noted that the land in question which is acquired has an irrigation potential and as such pursuant thereto, the Reference Court has relied upon compensation awarded by the Land Acquisition Officer for the well in the land under acquisition.

7] It is further required to be noted that the Reference Court while relying upon the award delivered by the Land Acquisition Officer which was at Exhibit 50 has taken a note of sale instance dated 14.5.1999 in which price of the land was shown as Rs.833/- per Aare and which was nearest in point of time to that of the land under acquisition. It is required to be noted that Section 4 notification is dated 6.1.2000 and the sale instance of Rs.833/- per Aare which is taken into account is dated 14.5.1999.

8] the learned Reference Court was alive of the fact as regards availability of irrigation facility and as such

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has enhanced the compensation by taking into account the sale instance dated 14.5.1999 at Rs.833/- per Aare which was admitted for Jirayat / dry crop land.

9] the enhancement as is ordered by the Reference Court, in my opinion, is based on sufficient documentary evidence. No case is made out for interference. Hence, the First Appeal No.1452/2014 fails and the same stands dismissed.

10] The applicants / claimants will be at liberty to withdraw the amount as deposited in this Court. Civil Application No.7738/2015 is accordingly disposed of.

(N.W. SAMBRE, J.)