

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.30 OF 2002

The State of Maharashtra,
through Collector, Osmanabad ..Appellant

Versus

Jangallappa Dharma Kaspate,
Age 55 years, occ. Agri.,
r/o. Ruibhar, Tq. and
Dist.Osmanabad ..Respondent

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Mr.S.G.Sangle, A.G.P. for appellant - State

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CORAM : M.T. JOSHI, J.
DATE : FEBRUARY 06, 2015

ORAL JUDGMENT :

Heard learned A.G.P. for appellant - State.
None present for the respondent.

2] Aggrieved by grant of higher compensation in a
land acquisition reference proceedings, than
granted by the Land Acquisition Officer, present
appeal is preferred by the State.

3] The land of the respondent was acquired by the State for Ruibhar Medium Project, Ruibhar village. The notification under Section 4 of the Land Acquisition Act was issued on 19th October, 1982. The Land Acquisition Officer, in his award, offered price at Rs.10,500/- per Hectar. However, the present respondent along with other land owners claimed compensation at the rate of Rs.40,000/- per Acre. Learned Civil Judge Senior Division has enhanced the compensation to Rs.37,000/- per Acre and an amount of Rs.10,000/- was granted towards improvement i.e. acquired bandh.

4] Mr.Sangle, learned A.G.P. for the appellant submits that the reference court relied upon the agreement of sale and bare statement of the Valuer, who allegedly visited the spot without any notice to the State and has enhanced the compensation, as detailed supra. He

submits that the award of the Land Acquisition Officer would show that there were two sale instances available from the same village i.e. Ruibhar of the years from 1980 to 1982. As such, a false statement was made in the trial court that during the said period, no sale instance of the land of said village, was available. He, therefore, submits that the appeal may be allowed.

5] On the basis of this material, following point arises for my determination :-

Whether the award passed by learned reference court represents true market value of the land ?

. My finding to the above point is in negative and therefore, the appeal is allowed and the reference application is dismissed for the reasons to follow.

R E A S O N S

6] The certified copy of the award passed by the Land Acquisition Officer would show that for the period from 1980 to 1982, two sale instances were available for the lands from village Ruibhar. As against this, the witness of the claimant deposed that there was no sale instance executed in his village during the relevant period. An agreement of sale was relied upon by the claimant/respondent by examining it's executor i.e. PW 2 – Nanasaheb Tirthkar. It would show that he had agreed to sell his land ad-measuring 81 Are to one Shivaji Rohile on 19th May, 1982 for a consideration of Rs.90,000/-.

7] In the teeth of the material on record i.e. certified copy of the award of the Land Acquisition Officer, learned reference court has

neglected to take into account that there were sale instances available from the same village, and it merely placed reliance on the agreement of sale.

8] As regards the improvement, it should be noted that according to the claimant, during the joint inspection, no such improvement was found. The Valuer, PW 3 – Ramchandra has, admittedly, visited the spot in absence of the Government official and without issuing notice to them. In the circumstances, no reliance could have been placed over the report of the Valuer also. The judgment of the learned reference court is, thus, perverse.

9] In the result, the appeal is allowed with costs throughout. The impugned judgment and award passed by the learned Civil Judge Senior Division,

osmanabad is hereby set aside. Instead, the reference application is dismissed.

[M.T. JOSHI, J.]

kbp