

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 407 OF 2002

WITH

CIVIL APPLICATION NO. 2794 OF 2001

Zilla Parishad, Jalgaon,
Through its Chief Executive Officer,
Zilla Parishad, Jalgaon.

... APPELLANT

VERSUS

1. Kadu Gyanu Hivale,
Age 65 years, Occ. Agri.
R/o. Dhalgaon, Tq. Janmer,
Dist. Jalgaon.

2. The Special Land Acquisition
Officer, Jalgaon.

... RESPONDENTS

Mr. P.B.Patil, Advocate for the Appellant.
Mr. P.P.More, AGP for Respondent No.2.

CORAM : **N. W. SAMBRE, J.**

DATE : 06th August, 2015.

ORAL JUDGMENT :

1 This appeal is by the Acquiring Body against the

enhancement granted by the Reference Court to the tune of Rs.60,000/- per Hectare for Jirayat land. Mr.Patil, learned counsel for the Appellant has strenuously urged that Section 4 notification in the present matter was issued on 5th May, 1983, whereas the sale instance at Exhibit – 21, which is taken into account, is subsequent to the said Section 4 notification. According to him, the sale instance, as such is incorrectly relied upon by the learned Reference Court.

2 The law on the above is well settled, as it is permissible for the Reference Court to consider a sale instance, which is issued subsequent to Section 4 notification, provided if it is brought on record that the sale-deed subsequent to Section 4 notification is not with an intention to give unjust enrichment to which the claimant is not entitled to. That does not appear to be the case put forth by the Acquiring Body before the Reference Court. The relevance of location in the same vicinity, and appropriate deduction are properly appreciated by the Reference Court.

3 In view thereof, in my opinion, no case for interference is made out.

4 Hence, the appeal stands dismissed.

5 In view of dismissal of first appeal, pending civil
application does not survive and the same stands disposed of.

[N. W. SAMBRE, J.]

ndm