

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

FIRST APPEAL NO. 967 OF 2002
WITH CA/12259/2015 IN FA/967/2002 WITH FA/245/2009

PRATAPSING NARAYAN RAJPUT
VERSUS
SUB-DIVISIONAL MAGISTRATE JALGAON

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Advocate for Appellant : Pradip R Patil
AGP for Respondents: Mr.S.P.Deshmukh

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FIRST APPEAL NO.245/2009

THE STATE OF MAHARASHTRA AND ANR
VERSUS
PRATAPSING NARAYANSING RAJPUT

AGP for Appellant : Mr.S.P.Deshmukh
Adv. For respondent : P.R.Patil

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CORAM : S.V.GANGAPURWALA,J.

DATED : 20TH OCTOBER, 2015

PER COURT :-

The claimant had filed Reference under Section 18 of the Land Acquisition Act being dissatisfied with the amount of compensation awarded by Special Land Acquisition Officer. The Reference Court partly allowed the said Reference. The impugned judgment and order is assailed by the claimant as well as the State in their respective appeals.

2] 1 hectare 77 R land is acquired of the claimant for extension of

Gaothan. The Reference Court has considered valuers report while awarding compensation amount.

3] Mr.Patil, learned counsel for the claimant submits that though the reference Court accepted the rate of Rs.150/- per sq. mt. However, it erred in making calculation. It deducted 30% towards development charges and again 35% area is reduced for development work. The report of the valuer has not been considered in correct perspective. According to the learned counsel, the valuer Mr.Nehete is also examined before reference Court. He has explained the valuation report Exh.36. As per the said valuers report the compensation comes to Rs.16,73,000/- for the acquired area of 1 hectare 77 R. The valuer has considered the agricultural potentiality, boundaries of the land. The same is situated on Palaskheda Mohadi road. The sale instance is also on record. The reference Court ought to have accepted the report of valuer in toto.

4] The learned AGP submits that the said valuers report cannot be accepted in toto. The S.L.A.O. after considering all the relevant aspects of the matter had properly granted compensation. The sale instances of small plots cannot be considered. According to the learned AGP exorbitant compensation is awarded. The valuer had deducted only 10% towards development charges. The same ought to have been 20%. The learned AGP relies on the judgment of the Apex Court in the case of **Kasturi and others V/s State of Maryana reported in AIR 2003 SC 202.**

5] With the assistance of learned counsel for the respective parties, I have gone through judgment so also record and proceeding. Reference Court has not relied on sale deed Exh.20 as it is a sale in respect of a plot admeasuring 33x825 ft., certainly the

same cannot be considered as an exemplar.

6] The Court has relied on the valuers report. The situation of the acquired land is also to be considered wherein it is situated on road i.e. Palaskheda Mohadi road. Towards north also there is a road, as such said land has road towards east and north. Acquired land is 1 hectare 77 R. It is also said that the land is situated within the development zone of the village very close to the Gaothan boundary and abutting to two roads. As the land itself is acquired for extension of Gaothan it would mean that it is abutting to Gaothan. The rate worked out is Rs.150/- per sq. mt. The same is arrived at after considering sale instances of various plots. I do not think any error is committed by reference Court in accepting rate as Rs.150/- per sq. mt. The valuer has deducted 10% towards development charges. The same is on the lower side. 20% is required to be deducted for development charges as is held by Apex Court in the case cited supra. If 20% is deducted towards development charges, rate comes to Rs.120/- per sq. mt. 30% area naturally will have to be deducted if the price of the said land is to be treated as that of a developed land so the land which would be required to be considered is 1 hectare 24 R though 1 hectare 77 R is acquired. Considering said rate, the amount of compensation for 1 hectare 77 R acquired land would come to Rs.14,88,000/-.

7] In the result, order passed by reference Court is modified. It is held that the appellant/claimant is entitled for compensation of Rs.14,88,000/- for his acquired land instead of Rs.7,31,500/- per hectare as held by reference Court.

8] The respondent shall pay compensation to the appellant at the rate of Rs.14,88,000/- for the acquired land alongwith statutory

benefits u/s 28, 34, 23(1A) of the Land Acquisition Act. Appeals stand disposed of. No costs.

9] In view of disposal of Appeals, Civil Application stands disposed of.

[S.V.GANGAPURWALA,J.]

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