

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

37 FIRST APPEAL NO. 164 OF 2003
WITH CA/4672/2000 IN FA/164/2003 WITH FA/165/2003 WITH
CA/4664/2000 IN FA/165/2003 WITH FA/166/2003 WITH
CA/4670/2000 IN FA/166/2003 WITH FA/167/2003 WITH
CA/4668/2000 IN FA/167/2003 WITH FA/168/2003 WITH
CA/4666/2000 IN FA/168/2003 WITH FA/169/2003 WITH
CA/4662/2000 IN FA/169/2003

STATE OF MAHARASHTRA

VERSUS

SITARAM NATHU NEHTE AND OTHERS

...

AGP for Appellant State : Mr. D.R.Korde
Advocate for Respondents : Mr. L. V.Sangit h/for
Mr. V. J. Dixit

...

CORAM : S. V. GANGAPURWALA, J.

DATE : 9th September, 2015

PER COURT :

1. The lands of the present respondents/claimants were acquired for percolation tank. The lands are situated at Edlabad (now Muktainagar), within THE municipal limit. The Special Land Acquisition Officer awarded compensation @ Rs.15/- per square meter. The reference Court enhanced compensation to Rs.60/- per square meter. The State has assailed the said judgment and award before this Court.

2. Learned AGP submits that the Reference Court has relied on the sale deeds of small plots of land while granting compensation amount. It has also failed

to consider that the lands under the sale deeds Exh.23 and 25 are situated on road. According to learned AGP, THE same could not have been considered as comparable sale instance. The other factors have also not been considered by the Reference court, such as the lands acquired are not on the road. According to learned AGP, only on the basis of sale instances, Exhibits 23 and 25, the compensation has been enhanced, which is improper.

3. Mr. Sangit, the learned counsel for the respondents-claimants submit that sale instances have been properly considered. The sale instances are in respect of the land situated in the same town, at distance of 150 feet from the acquired land. The sale instances are also prior to the notification under Section 4 of the Land Acquisition Act.

4. I have considered the judgment and award so also record and proceedings.

5. While enhancing the compensation amount, the reference Court has basically relied upon Exhibits 23 and 25. The said sale deeds would show that average

of the consideration amount of the sale deeds is Rs.100 per square meter as has been observed by the Reference Court. The Reference Court has not awarded the said compensation amount but has awarded compensation @ Rs.60/- per square meter. It has come in the evidence that the land under the sale deed and acquired lands are situated nearby in the same town at the distance of 150 feet. The same certainly can be considered as comparable sale instance. No evidence is brought on record by the appellant to show as to how the sale instances cannot be relied upon or that the sale instances are not genuine and for higher amount. No evidence is led even in this regard by the State. The claimants have stepped into witness box to prove the said sale transactions.

6. Considering the aforesaid aspects of the matter, no error has been committed by the Reference Court. The first appeals are dismissed. No costs.

7. Civil applications also stand disposed of.

(S. V. GANGAPURWALA, J.)

JPC