

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3050 OF 2008

Shivaji s/o Khanderao bhosle,
Age : 55 years, Occu. Agri.,
R/o Bhatangali, Tq. Omerga,
District Osmanabad

APPELLANT

VERSUS

The State of Maharashtra,
through Collector, Osmanabad

RESPONDENT

AND

FIRST APPEAL NO. 135 OF 2000

Somnath s/o Veerapakshappa Rajmane,
Age : 45 years, Occu. Agriculture
and service, R/o Bhatangli, Taluka
Omerga, District Osmanabad, at
present Latur

APPELLANT

VERSUS

The State of Maharashtra,
through Collector, Osmanabad

RESPONDENT

Mr. S.S. Manale, Advocate for the appellant
in First Appeal No. 3050/2008

Mr. V.C. Solshe, Advocate for the appellant
in First Appeal No. 135/2000

Mr. S.M. Jadhav, A.G.P. for the respondent/State
in both the appeals

CORAM : M.T. JOSHI, J.

DATE : 12/02/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. The learned counsel for the appellants file on

record the true copy of the orders dated 25th March, 2010 passed in First Appeal No. 134/1994 and dated 2nd/6th December, 2005 passed in First appeal No. 326/1999. Both are accepted on record and marked "X" and "X1", respectively.

3. The judgement dated 25th March, 2010, delivered in First Appeal No. 134 of 1994 would show that arising out of the same land acquisition proceedings, the Land Acquisition Reference was filed, which ultimately came before this Court vide said First Appeal No. 134 of 1999. The reasoning as well as the order would show that this Court has modified the award and enhanced the compensation from Rs. 14,000/- to Rs. 17,000/- per acre with consequential statutory benefits.

4. Mr. V.C. Solshe, learned counsel for the appellant in First Appeal No. 135/2000, submits that in view of the judgement delivered by this Court in First Appeal No. 326/1999, dated 2nd/6th December, 2005, in fact, the enhancement should at the rate of Rs. 22,000/- per acre.

5. Upon hearing both sides and on going through

the material on record, it is found that while in First Appeal No. 326/1999, the acquired land was irrigated land, in the present case what we found is that the present acquired land was dry-crop land though capable of having two crops i.e. kharip crop as well as rabbi crop. In that view of the matter, the decision rendered in First Appeal No. 326/1999 would not be applicable in the facts of the present case.

6. Further, taking into consideration that in First appeal No. 134/1994, the notification under section 4 (1) of the Land Acquisition Act was published in the year 1984 though for the same purpose, in the present cases i.e. First Appeal No. 3050/2008, the notification under section 4 of the Land Acquisition Act was issued on 17.12.1987. In the circumstances, it will have to be held that the escalation in the price at the rate of 7.5% per annum would be there. In that view of the matter, there would be increase of 22.5% in the price of Rs. 17,000/- per acre, that has been arrived at in the judgement dated 25th March, 2010, delivered by this Court in First Appeal No. 134/1994. In the circumstances, the following order:-

7. Since the present first appeal arises out of the same acquisition proceedings, similar order is required to be passed. Hence, the following order:-

8. First Appeal No. 135/2000 is hereby partly allowed with proportionate costs. The award of the learned Civil Judge, Senior Division, dated 25th July, 1990 passed in Land Acquisition Reference No. 16/1989 is hereby modified from Rs. 7,000/- to Rs. 17,000/- per acre with consequential statutory benefits.

9. First Appeal No. 3050/2008 is hereby partly allowed with proportionate costs. The award of the learned Civil Judge, Senior Division, Omerga passed in Land Acquisition Reference No. 92/2004 is hereby modified from Rs. 8000/- to Rs. 17,000/- per acre Plus 22.5% towards escalation in the price and the appellant would be entitled to get the amount of Rs. 20,825/- per acre with consequential statutory benefits.

. Both the appeals are accordingly disposed of.

[M.T. JOSHI]
JUDGE