

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 16 OF 2000

Hilal @ Hiralal s/o Trimbak
Chaudhari, Age : 39 years,
Occu. Agriculture, R/o Tarwade,
Tal. Chalisgaon, Dist. Jalgaon

APPELLANT

VERSUS

The State of Maharashtra,
through Special Land Acquisition
Officer, Jalgaon, Dist. Jalgaon

RESPONDENT

Mr. V.M. Kendre, Advocate for the appellant
Mr. S.P. Daund, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 12/02/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. Aggrieved by the lesser compensation awarded by the learned Civil Judge Senior Division, Jalgaon than claimed by the present appellant, the present appeal is preferred.
3. The pleadings of both sides, the documentary evidence as well as submissions advanced on behalf of

both sides would show that on the basis of one sale instance, proved by the present appellant at Exhibit-14, the learned Judge has increased the compensation than awarded by the learned Land Acquisition Officer to Rs. 60,000/- per hectare for dry-crop land and Rs. 1,20,000/- per hectare for bagayat land. However, according to the appellant, his claim for the compensation towards the acquisition of well and compensation towards the acquisition of fruit bearing tree is not granted.

4. Learned A.G.P. submitted that there is no reason to interfere in the compensation granted by the learned Reference Court.

5. On the basis of above material on record and the submissions advanced on behalf of both sides, the following point arises for my determination:-

“Whether the compensation awarded by the learned Reference Court represents true market price of the land as well as the tree and well?”

My finding to the above point is in the affirmative. The appeal is, therefore, dismissed without any order as to costs, for the reasons to follow :-

R E A S O N S

6. The sale instance (Exhibit-14) dated 16.07.1979 would show that the land of very same village Borkhede was sold by a vendor to a vendee for a consideration of Rs. 40,000/-. It was 97 R of land. The learned Civil Judge Senior Division, therefore, accepted the said sale instance. Further finding that the said sale instance was of the year 1979 and the notification under section 4 of the Land Acquisition Act was published in the year 1986, 10% increase per year was considered and on the basis of above, the valuation was accepted.

. It should also be borne in mind that certain compensation towards fruit bearing trees was also awarded.

7. Taking into consideration the other material, ultimately, it was held by the learned Civil Judge

Senior Division that the market price would be Rs. 60,000/- per hectare for jirayat land and Rs. 1,20,000/- per hectare for bagayat land. When the oral evidence regarding the vicinity is considered and the compensation is awarded, in my view, there is no need to interfere in the said award, as regards the compensation of the land.

8. As regards the compensation towards the well in the irrigated land, as the well was used for the purpose of irrigation, the learned Judge did not grant any separate compensation for the same. The reasoning given by the learned Civil Judge Senior division cannot therefore be faulted with. Further, from paragraph No. 16 to 18 of the impugned judgement, the learned Civil Judge Senior Division has considered the number of the fruit bearing trees, took into consideration the Government valuation and thereafter, on the basis of the material before him, fixed the price of each of the tree and granted the compensation, as detailed in the same award. Upon perusal of the material on record, no interference is warranted in the same also. In the result, the following order:-

9. The appeal is hereby dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE

npj/FA16-2000