

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

FIRST APPEAL NO. 1687 OF 2013
WITH CA/9530/2013 IN FA/1687/2013

GANGADHAR SANGAPPA GHUME
VERSUS
1]THE STATE OF MAHARASHTRA
2]THE SPECIAL LAND ACQUISITION OFFICER [SUWARNA PROJECT]
LATUR
3]THE EXECUTIVE ENGINEER MINOR IRRIGATION,LATUR

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Advocate for Appellant : Mr.P.G.Rodge
AGP for Respondents: Mr.S.P.Deshmukh
Advocate for Respondents : Shri Deshpande Geeta L For R/3

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CORAM : S.V.GANGAPURWALA,J.

DATED : 15TH OCTOBER, 2015

ORDER :-

1. Mr. Rodge, the learned counsel submits that, in some other similar references in respect of the lands acquired from the same village and for the same purpose the Reference Court has awarded higher compensation amount. The same compensation is required to be awarded to the claimants in the present case. The learned counsel relies on the judgment of the Apex Court in the case of **Ranjit Singh and others V/s. State of Punjab and another reported in J.T. 2001 (10) S. C. 41**. According to the learned counsel, the land of the claimant is bagayat land. Reference Court has considered the same as seasonally irrigated

land. According to the learned counsel even opportunity of adducing evidence was not properly given by the Reference Court.

2. Mrs. Deshpande, the learned counsel for the acquiring body submits that, ample opportunity was given by the Reference Court to the claimant to adduce evidence but it is the claimant who has failed to adduce the evidence. Each matter will have to be considered on the evidence led in the said matter. The quality of the land, the fertility of land and all other relevant aspects are required to be considered. Though the evidence is not led the Court has awarded the compensation as awarded in L. A. R. No. 25 of 2007. According to the learned counsel the appeal deserves to be dismissed.

3. The learned A. G. P. also adopts the arguments of learned counsel for acquiring body.

4. I have perused the roznama. It would be seen that, since 04th January, 2010, the counsel for the present appellant was moving adjournment applications. No evidence has been led by the present applicant to show the nature of the land i.e. whether it is a jirayat, seasonally irrigated or irrigated land. The quality of land is required to be considered while awarding compensation. Different categories of land though are acquired under the same project will have to be considered with respect to the said category i.e. whether the same is jirayat land, seasonally irrigated or irrigated and compensation would differ accordingly. Without any

evidence on record it would not be possible for the Court to come to the conclusion as to the quality of the land of the appellant that is acquired.

5. In a case of Ranjit Singh referred supra the Court observed that, if the land is situated in same village then there is no justification for awarding lesser compensation. However, the claimant in the present case is not saying that, his land is jirayat land on the contrary he is contending his land to be perennially irrigated land and is claiming compensation of an perennially irrigated land. The factum of the land of the petitioner being perennially irrigated will have to be proved before the Court. In absence of the evidence in that regard the Courts can not blindly rely on the award passed in other references and award the same rate as awarded for bagayat land in the other references.

6. Considering the reasons put forth I am inclined to grant one more opportunity to the claimant prove his case. However, in such case the claimant would not be entitled for the statutory benefits for the delay caused by the claimant. The same would be in tune with the judgment of the Apex Court in the case of **Ramanlal Deochand Shah and another V/s State of Maharashtra and another reported in 2013 AIR (SC) 3452.**

7. Considering the above, I pass the following order.

8. The impugned judgment and award passed by the Reference

Court is quashed and set aside. The L. A. R. No. 125 of 2007 is restored to its original position. The parties shall appear before the Reference Court on **18th November, 2015**. Record and proceedings be sent back to the Reference Court forthwith.

9. In case the Reference Court comes to the conclusion to enhance the compensation amount then, the claimant would not be entitled for the statutory benefits from January, 2010, till 18th November, 2015. First Appeal stands disposed of. No costs. Civil application also stand disposed of.

[S.V.GANGAPURWALA,J.]

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