IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 366 OF 2002
WITH
CIVIL APPLICATION NO. 5070 OF 1999

The State of Maharashtra. … Appellant / Applicant

Versus

Tukaram Laxman Aute,
Age : Major, Occu: Agriculturist,
R/o Agarwadgaon, Tq. Gangapur,
District Aurangabad. … Respondent

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Mr.P.P.More, learned AGP for Appellant / State.
None for Respondent.

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CORAM : **N. W. SAMBRE, J.**

DATE : 06th August, 2015.

Oral Judgment:

1 Heard Mr.Ingole, learned AGP for State. The Respondent though served, non appears.

2 The State has preferred present first appeal under Section 54 of the Land Acquisition Act, questioning the judgment dated 31st March, 1997, delivered by IVth Joint Civil Judge (Senior Division), Aurangabad, whereby compensation awarded by the

Land Acquisition Officer to the tune of Rs.350/- per Are was enhanced to Rs.750/- per Are.

3 Mr.Ingole, learned AGP would urge that the enhancement granted is exorbitant and without any material evidence on record.

4 With the assistance, I have perused the record and proceedings available with the learned AGP.

5 In the present case, the land in question was acquired for an irrigation project to the extent of 1 Hectare, 53 Ares from Gat No.186 of village Agarwadgaon. The land was Jirayat land and Section 4 notification for acquisition came to be issued by the competent authority on 7th August, 1990.

6 The claimant – Respondent sought enhancement on the ground that the L.A.O has awarded comparatively less compensation and has produced on record sale instances at Exhibits – 12 and 15.

7 The claimants have examined one Gamaji Sripati Kute so as to prove the sale-deed of which, certified copy and the

compliance under Section 57 was reported. The Reference Court has proceeded to analyze the said sale instances and noted that the sale-deed Exhibit – 12 is executed by Gamaji on 2nd January, 1989, whereas Exhibit – 15 is for 18 Ares land for consideration of Rs.48,000/- executed by Dattu Khaire. Both these sale-deeds since are closed in time with that of Section 4 notification, the Reference Court has proceeded to consider the value as mentioned in the said sale-deeds. According to the Reference Court, the value of the land comes to Rs.795/- per Are and the market value as is claimed was Rs.750/- per Are. Based on the same, the Reference Court has awarded compensation at the rate of Rs.750/- per Are.

8 The enhancement of Rs.750/- per Are includes the compensation awarded by the learned LAO i.e. Rs.350/- per Are.

9 As the enhancement is based on the sale instances at Exhibits – 12 and 15, which are closed in time with that of Section 4 notification, in my opinion, no illegality would be noticed in the judgment of the Reference Court. As such the appeal stands dismissed.

10 In view of dismissal of first appeal, pending civil application for stay, does not survive and the same stands disposed of.

[N. W. SAMBRE, J.]

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