

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

First Appeal No. 1080 of 2003

The State of Maharashtra. .. **Appellant.**

Versus

Sheshrao Yeshwant Mhasrup
Age major,
Occupation : agriculture,
R/o Agarwadgaon,
Taluka Gangapur,
District Aurangabad. .. **Respondent.**

Shri. G.O. Wattamwar, Assistant Government Pleader, for
appellant.

CORAM: T.V. NALAWADE, J.

DATE : 8th DECEMBER 2015

JUDGMENT:

1) The appeal is filed to challenge the judgment and award of Land Acquisition Reference No.539 of 1996 which was pending in the Court of the Civil Judge, Senior Division, Aurangabad. In the reference filed under section 18 of the Land Acquisition Act by the present respondent, compensation is enhanced by the Reference Court and so the State has challenged the decision. Heard learned Assistant Government Pleader.

2) 45 R portion from land Gat No.237 situated at village Agarwadgaon of the present respondent is acquired by the Government. The notification under section 4 of the Land Acquisition Act was published on 7-8-1990. The Land Acquisition Officer fixed the market price at Rs.350 per R. It is the case of the owner that market price was much higher and he is entitled to get at least Rs.750/- per R. Before the Reference Court he produced record like sale instances, 7/12 extract and he examined himself. No evidence in rebuttal is given by the State.

3) The Reference Court has considered the sale instance at Exhibit 15 which is in respect of the land from the same village and the land was sold prior to the notification published under section 4 of the Land Acquisition Act. He examined the purchaser to prove the sale instance. This transaction was of the year 1988-89 when the notification is of 1990. As per the sale instance land was sold for the price of Rs.795/- per R. There is nothing in rebuttal in respect of this circumstance. It was similar land and so the sale instance was comparable sale

instance. The Reference Court has held that it was a genuine transaction. The Reference Court has observed that the market price of Rs.895/- per R could have been claimed by the claimant but has made claim at the rate of Rs.750/- per R. Such enhancement needs to be given. Thus, the enhancement given by the Reference Court is on the basis of sale instance and more amount could have been given by the Reference Court. This Court holds that it is not possible to interfere in the decision of the Reference Court.

4) In the result, the appeal stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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