

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

FIRST APPEAL NO.1076 OF 2015

1. The State of Maharashtra,
Through the District Collector,
Latur
 2. The Executive Engineer,
Minor Irrigation (Local Sector)
Division, Latur
- ..Appellants
(Original respondents)

Versus

- . Haridas s/o Venkatrao Mane,
Age 30 years, Occu. Agri.,
R/o Hangarga, Taluka Udgir,
District Latur
- ..Respondent
(Original Claimant)
- WITH -

FIRST APPEAL NO.1078 OF 2015

1. The State of Maharashtra,
Through the District Collector,
Latur
 2. The Executive Engineer,
Minor Irrigation (Local Sector)
Division, Latur
- ..Appellants
(Original respondents)

Versus

- . Govind s/o Jaywantrao Mane,
Age 22 years, Occu. Agri.,
R/o Hangarga, Taluka Udgir,
District Latur
- ..Respondent
(Original Claimant)

Mr P.P. More, A.G.P. for appellants
Mr V.V. Bhavthankar, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 1st August 2015

PER COURT

Heard.

2. These appeals are by the State Government and the acquiring body under Section 54 of the Land Acquisition Act (hereinafter referred to as "the Act" for brevity). The land in question was acquired for the purpose of percolation tank No.3 at village Hangarga, Taluka Udgir, District Latur.

3. The award in the present case was delivered by the Special Land Acquisition Officer on 28th May 2001, following whereupon references under Section 18 of the Act for enhancement of compensation were filed by the respondents. The notification under Section 4 of the Act in these cases was issued on 18th February 1999. Objection under Section 9 of the Act was submitted by the land owners in support of their claim for compensation of Rs.2,00,000/- to Rs.4,00,000/- per acre for dry and bagayati land. The Special Land Acquisition Officer awarded compensation at the rate of Rs.560/- per R, i.e. Rs.22,400/- per acre.

4. The claimants - land owners alleged that the land which was acquired was rich cotton soil land and the land owners were harvesting double crops i.e. kharip and rabbi, earning about Rs.30,000/- to Rs.40,000/- per acre per year. The population of the village at the relevant time was about 3000 and the facilities like Grampanchayat, school education up to 10th standard electricity, water supply and co-operative society were available. It is claimed that the headquarter Udgir was located about 13 Km. From the land

under acquisition. It is claimed that the Special Land Acquisition Officer without any enquiry awarded compensation and has also not issued notices to the land owners.

5. The enhancement as is claimed was questioned by the appellants herein by filing joint written statement at Exh.10. It is claimed that the land under acquisition was of medium quality and the owners were cultivating only kharip crops. The claim for enhancement was opposed on the ground of absence of any documentary evidence as regards nature of cropping pattern and the income.

6. Based on the pleadings raised, the reference Court framed issues at Exh.11 and answered the same by granting enhancement at the rate of Rs.1,500/- per R.

7. In support of the enhancement claims, the land owners have placed on record substantial documentary evidence and examined witness Waman Mane.

8. Learned Assistant Government Pleader, while questioning the enhancement, has raised an issue of reference being barred by limitation and also about grant of exorbitant compensation. The plea was opposed by learned Counsel for the respondents – land owners.

9. So far as the issue of limitation is concerned, it is required to be noted that the Special Land Acquisition Officer has declared the award and the knowledge of the same was received by the respondents on 8th July 2002. The amount was withdrawn by the land owners under

protest. The reference Court noted that the references were filed on 31st July 2002 and the knowledge of award to the claimants was on 8th July 2002. The reference Court then considered the issue of limitation based on the judgment of Apex Court in the matter of **Mangilal Jawanmal & Ors., Vs. Spl. Land Acquisition Officer** and noted that the reference was filed within limitation i.e. from the date of knowledge of the award to the claimants.

10. In my opinion, once it is not brought on record by the appellants herein as regards the date of communication of award or notice to the claimants, the date of knowledge as is claimed by the land owners was rightly formed to be basis for calculating the limitation by the reference Court. No illegality could be noticed.

11. So far as the enhancement granted by the learned reference Court is concerned, the reference Court has taken into account the evidence of Waman Mane at Exh.12 and has taken into account the copy of the award passed by the Special Land Acquisition Officer under Section 11 of the Act, the 'E' Statement at Exh.16, the copies of 7/12 extracts at Exhs.17 to 23, the copy of sale deed dated 15th February 2000 at Exh.24 in respect of land located at village Tondar, Taluka Udgir, District Latur having Survey No.92/A.

12. It is required to be noted that as against the above evidence of the claimants, the appellants herein have not adduced any evidence nor placed any documents on record to substantiate their claim of grant of enhanced compensation. The witness of the claimants Waman Mane, who is examined at Exh.12 discloses the transaction of

land admeasuring 33 R and 55 R from Block Nos.152 to 156 located at village Hangarga, which were owned by him and acquired by the State for construction of percolation tank. The other land from Block Nos.150, 152, 155, 156, 158 total admeasuring 4 hectares 62 R was also acquired for the same purpose. The Special Land Acquisition Officer against the claim of Rs.2,00,000/- and Rs.4,00,000/- per acre for dry and irrigated lands awarded compensation of Rs.560/- per R i.e. Rs.22,400/- per acre. He then proceeded to consider the population of the village, location of the land from the taluka headquarter and availability of facilities like Grampanchayat, main market, sugar factory and further considered the earning of Rs.20,000/- per acre per year.

13. The Special Land Acquisition Officer then noted that the 7/12 extracts as are placed at Exhs.17 to 23 depict about the irrigation facilities and the cropping pattern. The sale deed 15th February 2000 of the land located at village Tondar, Taluka Udgir of 33 R land out of Survey No.92/A for a consideration of Rs.1,40,000/- was formed to be basis. The learned reference Court by relying upon the judgment of Apex Curt in the matter of **Metha Ravindra Rai Vs. State of Gujrat**, reported in **AIR 1989 S.C. 2051** and the provisions of Section 23 of the Act has proceeded to consider the same to be the basis and has granted compensation at enhanced rate. While granting the enhanced compensation, learned reference Court was alive to its right to do some guess work, which is permissible in law and after considering the cumulative effect, cropping pattern, various sale-deeds, location of land, facilities available in village, has reached

to a conclusion and granted Rs.65,000/- per acre towards the acquisition of land.

14. In my opinion, the enhanced compensation as is awarded by learned reference Court is based on some guess work, which is permissible in law, particularly in view of the law laid down by Apex Court, the guess work, it does not appear that the compensation granted is at exorbitant rate to the agriculturists, who have lost their lands for certain project.

15. In view of above background, no case for interference is made out. Both the appeals fail, stand dismissed.

(N.W. SAMBRE, J.)

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