

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

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21 FIRST APPEAL NO. 1546 OF 2014
WITH FA/1476/2014 WITH CA/6867/2014 IN FA/1476/2014
WITH FA/1477/2014 WITH CA/6866/2014 IN FA/1477/2014
WITH FA/1547/2014 WITH FA/1548/2014 WITH FA/1636/2014

THE EXECUTIVE ENGINEER, HATNOOR CANAL DIV.
VERSUS
SUPADU TUKARAM PATIL AND ORS

...

Advocate for Appellant : Ms. Kutti Choudhary Chaitali R.
AGP for Respondents State: Mr. S. M. Jadhav
Advocate for Respondent No.1 : Mr. Vijay B. Patil

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CORAM : S. V. GANGAPURWALA, J.

DATE : 14th September, 2015

PER COURT :

1. The present respondents, aggrieved by the inadequate compensation awarded by the Special Land Acquisition Officer, filed application under section 18 of the Land Acquisition Act before the Reference Court for enhancement. The said references are partly allowed. Aggrieved thereby, the Acquiring Body has filed the present appeals.

2. Mrs. Kutty, the learned counsel for the appellant submits that the Court has rightly discarded Exh.15 i.e. sale deed as it is not a comparable sale

instance. In absence there of, there is nothing on record before the Reference Court to come to the conclusion that the market value of the acquired land was Rs. 1 lakh per hectare. The learned counsel submits that the S.L.A.O. had awarded compensation @ Rs.62,000/- and Rs.70,500/- per hectare. The S.L.A.O. had considered all the relevant aspects of the matters. Even Reference Court has not discussed about the potentiality of the land, crop pattern and the distance of the acquired land from the land under the sale deed. According to the learned counsel, in absence thereof, the court could not have enhanced the compensation amount.

3. Mr. Patil, the learned counsel for the claimants submits that in fact the sale instance was of Rs.2 lakh per hectare, the land under the sale deed is of the same village as that of the acquired land. The date of the sale deed and notification under section 4 is one and the same and as such, there was no impediment to rely upon the said sale deed.

4. I have considered the submissions, so also

record and proceedings.

5. Sale deed Exhibit 15 is in respect of the land situated in the same village as that of the acquired land. The S.L.A.O. had awarded compensation @ Rs.62,000/ and Rs.70,500/- per hectare and the Court has not relied on the said sale deed on the ground that the claimants did not show the distance between their land and the river or there is no evidence to show that the land of the claimant is fertile. However, the sale deed Exhibit 15 would certainly be considered while arriving at the compensation amount by making appropriate deduction. The Court has made appropriate deduction and has awarded modest sum of compensation of Rs.1 lakh per hectare.

6. As far as quantum of compensation is concerned, I do not see any case for interference being made out.

7. It appears that interest under section 34 of the Act is awarded from the date of possession which is improper as possession was prior to the notification under section 4. The date of possession is

19.04.1999 whereas, the notification under section 4 is dated 13.04.2000. The balance can be struck, if the claimants are restrained from filing application for rental compensation.

8. In the light of above, the appeals are dismissed. However, with a rider that the claimants shall not be entitled to apply for rental compensation. No costs.

9. In view of the dismissal of appeals, the claimants are entitled to withdraw the amount deposited.

10. Civil applications also stand disposed of.

(S. V. GANGAPURWALA, J.)

JPC