

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL STAMP NO. 19151 OF 2014
WITH
CIVIL APPLICATION NO. 10361 OF 2014

- 1] Executive Engineer,
Irrigation Project Strengthening Division,
Omega, Dist. Osmanabad
(now under the Maharashtra Krishna Valley
Development Corporation Ltd., Pune) ... APPELLANT
(Orig. Respondent no.3)

VERSUS

- 1] Nivrutti Khanda Gawali,
Age : 68 Yrs., Occu. : Agriculture,
R/o Hipparga (Rava) Tq. Lohara,
Dist. Osmanabad.
- 2] The State of Maharashtra
Through Collector, Osmanabad.
- 3] The Special Land Acquisition Officer,
Krishna Khore Vikas Mahamandal
Office, Osmanabad. ... RESPONDENTS
(Respondent No.1 (Orig.
Claimants)
Respondent No.2 & 3
(Orig. Respondent
no.1 & 2)

...

Mr. Shirish G. Sangle, Advocate for Appellants.
Mr. L. C. Patil, Advocate for Respondent No.1.
Mr. G. R. Ingole, A.G.P. for Respondent Nos. 2 & 3.

CORAM : N.W. SAMBRE, J.

DATE : 4th August, 2015

ORAL ORDER :

Heard.

2. With the consent of the parties, the appeal is taken up for final disposal at the stage of admission.

3. In the present matter, the land in question was acquired pursuant to the notification under section 4 of the Land Acquisition act issued on 4th December, 2003, for irrigation purpose.

4. The enhancement of compensation awarded by the learned Civil Judge Senior Division, Omerga, by judgment and award dated 7th December, 2011, is questioned in the present appeal.

5. Mr Sangle, learned Counsel appearing on behalf of the appellant would urge that while granting enhancement of compensation, the Reference Court has lost sight of the two aspects; (a) that the land of which the sale instance was taken into account was a small piece of land and (b) that the sale instance is of almost four years old as compared to notification issued under section 4 of the Land Acquisition Act.

6. With the assistance of learned Counsel appearing on behalf of respective parties, I have perused the findings recorded by the Reference

Court. It is required to be noted that the Land Acquisition Officer has classified the land based on the revenue record.

7. The respondent/claimant has placed on record the two sale instances at Exhs.22 and 23, coupled with the nature of cropping pattern. It is required to be noted that the sale instances which were of the year 1997-98 were duly considered in the background of the notification under section 4 of the Act, which is of the year 2003 and as such, the Reference Court has adjusted the amount pursuant to the time gap between section 4 notification and the sale instances. Apart therefrom, the Reference Court has reduced the price of the land by 20% as is reflected in the judgment, so as to over-come the location and purchase of the same by an adjacent owner.

8. In my opinion, the considerations taken into account by the Reference Court, while granting enhancement of compensation are permissible in the light of the judgment of the Apex Court in the matter of **Chimanlal Hargovinddas vs. Special Land Acquisition Officer, Poona & anr.**, reported in **AIR 1988 SC 1652**.

9. In the light of above, no interference is called in the impugned judgment and award. Thus, the appeal fails and stands dismissed with no order as to costs.

10. In view of disposal of First Appeal, Civil Application No.10361 of 2014 does not survive and stands disposed of.

(N.W. SAMBRE, J.)

amj