

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

FIRST APPEAL ST.NO.23344 OF 2014

Laxman s/o Ganpatrao Hake,
Age 30 years, Occu. Agril.,
R/o Shirnal, Taluka Chakur,
District Latur

..Appellant

Versus

1. The State of Maharashtra,
through the Collector,
District Latur

2. The Executive Engineer,
Local Sector, Latur,
District Latur

3. Special Land Acquisition Officer,
Swarna Project,Latur

..Respondents

Mr S.S. Halkude, Advocate for appellant
Mr S.P. Daund, A.G.P. for respondents 1 and 3
Respondent No.2 served

CORAM : N.W. SAMBRE, J.

DATE : 17th April 2015

PER COURT

1. Since the delay caused in preferring the present appeal is condoned, with the consent of parties, this appeal is taken up for hearing.

2. Mr Halkude, learned Counsel for the appellant has invited my attention to the award delivered by the Reference Court. With his assistance, I have perused the observations made by the Reference Court in the award. He would urge that the Reference Court has wrongly disbelieved Exh.18 - sale deed in relation to the land which was similarly situated like that of the land of the appellant, which was acquired by the respondent-acquiring body. He would urge that the

document Exh.18, a sale deed should have been taken into account by the Reference Court while granting compensation and enhancement of compensation to the tune of Rs.3 lacs per acre should have been awarded. In addition to above, he would urge that for discarding the said evidence, no proper reasons are recorded, as no contrary evidence is brought on record by the respondent - acquiring body. He submits that the appeal is liable to be allowed.

3. Having perused the observations made by the Reference Court, it is noticed that the Special Land Acquisition Officer awarded compensation of Rs.1150/- per R against which the appellant-claimant claimed Rs.3 lacs per acre. The claim of the appellant was based on the factual background i.e. Section 4 notification of the Land Acquisition Act issued on 13th May 2004 whereas the possession of the land in question was taken upon private negotiations on 22nd May 2003. Section 6 notification of the Land Acquisition Act was published on 15th December 2005. So as to establish the claim for enhancement, the evidence that was sought to be placed on record appears to be the availability of facilities like education, Grampanchayat, Post, telephone office, electricity etc.at the village which was about 10 Kms. from Taluka place Chakur. According to appellant-claimant, the industrial development such as Sugar factory will have definitely bearing over the value of the land in the said area. He claimed that the land in question was a better quality land and was yielding crops to the extent of Rs.20,000/- per acre per annum.

4. The appellant also placed reliance upon the sale deed Exh.18 in respect of land situated at Kalkoti, located about 10 Kms. from Chakur and about one Km. from village Shirnal from where the land in question was acquired. According to him, the said sale-deed was in respect of Gut No.145/KH ad measuring 67-R and was executed on 27th December 2001 for a consideration of Rs.2,50,000/-. If the said evidence is taken into account, it is required to be noted that the said land was purchased by the adjacent owner so as to facilitate him for cultivating his land and said fact has been taken into account and appreciated by the learned Reference Court. Learned Reference Court though has not straight way rejected the said document Exh.18, however, having regard to the background that the same pertains to different village, which is located at about a kilo meter from the land acquired, and as no independent evidence *qua* the map in relation to location of both the lands, or the evidence as regards any revenue entry or expert's opinion in relation to the location of the property in question was brought on record, has proceeded to pass an order awarding compensation at the rate of Rs.1,00,000/- per acre. The said findings are based on the appreciation of the documents and oral evidence of the appellant. Apart from the said document Exh.18, no other independent evidence is sought to be pressed into service by the appellant while claiming enhancement.

5. In my view, the learned Reference Court has rightly awarded the compensation at enhanced rate in view of the evidence that was brought before it.

6. As such, the present first appeal being devoid of merit, stands dismissed.

(N.W. SAMBRE, J.)

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