

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

...
909 FIRST APPEAL NO. 2543 OF 2015
WITH CA/10966/2015 IN FA/2543/2015

THE MUNICIPAL CORPORATION, AURANGABAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Appellant : Mrs. Deshpande Manjusha A.
AGP for Respondents: Mr. S. P. Sonpawale
Advocate for Respondents 2 to 4 : Mr. Nikam Krishnarao U
Mr. P. K. Nikam
Advocate for respondents/Claimants: Mr. P. P. Palodkar
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CORAM : S. V. GANGAPURWALA, J.

DATE : 21th October, 2015

PER COURT :

1. The present respondent/claimants had filed references under section 18 of the Land Acquisition Act, being dissatisfied with the amount of compensation, awarded by the Special Land Acquisition Officer. The Reference court partly allowed the reference. Aggrieved thereby, the acquiring body has filed the present appeal.

2. Mrs. Deshpande, the learned counsel for the appellant submits that the Special Land Acquisition Officer, after considering the rates as detailed in the ready reckoner and also considering all the relevant

aspects of the matter, has rightly considered the valuation of the acquired land @ Rs.1250/- per sq. mtr. The reference court has granted exorbitant compensation amount i.e. @ Rs.1865/- per square meter. The learned counsel submits that the judgment of the reference court is based on the solitary sale deed dated 15.04.1995 (Exhibit 38.) The said sale deed cannot be said to be an exemplar sale deed. Inasmuch as the said sale deed is in respect of smaller area of land admeasuring 55.76 sq. meter. The learned counsel submits that the said sale deed, being of a smaller area of land than the acquired land, required deductions were to be made. Consideration stated in the said sale deed cannot be said to be the market value for the acquired land. The learned counsel relies on the judgment of the Apex Court in the case of **Radha Mudaliyar Vs. Special Tahsildar (Land Acqi.)**, reported in 2010 (2) Scale 195. The learned counsel further submits that the land under the sale deed had road on one side and lane on another side. As such, the land under the said sale deed was located on much advantageous location. The said aspect has also not been considered by the Reference Court. The reference court has committed an error in enhancing the compensation.

3. Mr. Palodkar, the learned counsel for the respondents/claimants supports the judgment and submits that the sale deed Exhibit 38 is in respect of the land situated in the same vicinity as that of the acquired land. The acquired land is from Katkat gate area. The sale deed is also of the same area. The acquired land is more advantageously situated. It is abutted to the 100 ft. D. P. wide road, whereas the land under the sale deed is only on 15 feet wide road and lane. The learned counsel submits that modest amount of compensation has been awarded by the reference court.

4. I have considered the submissions and also gone through evidence produced by the claimants so also the sale deed.

5. Perusal of the sale deed Exhibit 38, it is manifest that the said sale deed is in respect of area of the land situated in the same vicinity as that of the acquired land. Acquired land and the land under the sale deed are from Katkat gate area which is situated in the precincts of the Aurangabad Municipal Corporation. The said sale deed is in respect of land admeasuring 55.76 square meters which is sold at the rate of Rs.1865/- per square meter. The said sale is dated 15.04.1995 i.e. just

four months prior to the notification published under section 126 of the Maharashtra Regional and Town Planning Act r/w section 6 of the Land Acquisition Act. The sale deed would be relevant in the present matter. The evidence has been led. There is nothing on record to even remotely suggest that the sale deed Exhibit 38 was not a *bona fide* sale transaction or it was not a genuine sale deed. No evidence to that effect has been led by the respondents. The court has considered the situation of the property in its correct perspective. Topography has been considered i.e. the acquired land is situated on 100 feet wide D.P.road and the land under the sale deed was situated just abutting 15 feet wide road and lane. It has also been considered that the sale deed was also before the land acquisition officer but it was discarded without any reason and has relied only on the ready reckoner. The same was certainly not proper. The reference court has considered all the relevant aspects of the matter and properly arrived at the market value.

6. In light of above, the first appeal is dismissed h

7. owever with no order as to costs.

8. In light of dismissal of the first appeal, the claimants are entitled to withdraw the amount deposited. Civil applications also stand disposed of.

(S. V. GANGAPURWALA, J.)

JPC