

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1213 OF 2015

1. The State of Maharashtra,
Through – The Collector,
Osmanabad
 2. The Divisional Officer and
Land Acquisition Officer,
Osmanabad
- ..APPELLANTS
(Ori. Respondents)

VERSUS

Vijaykumar Narharrao Deshpande,
Age : 45 yrs., Occu. Agriculture,
R/o Deolali, Tq. & Dist.
Osmanabad

..RESPONDENT
(Ori. Claimant)

WITH
FIRST APPEAL NO.1210 OF 2015

1. The State of Maharashtra,
Through – The Collector,
Osmanabad
 2. The Divisional Officer and
Land Acquisition Officer,
Osmanabad
- ..APPELLANTS
(Ori. Respondents)

VERSUS

Nandkumar Narharrao Deshpande,
Age : 40 yrs., Occu. Agriculture,
R/o Deolali, Tq. & Dist.
Osmanabad

..RESPONDENT
(Ori. Claimant)

WITH
FIRST APPEAL NO.1211 OF 2015

1. The State of Maharashtra,
Through – The Collector,
Osmanabad
 2. The Divisional Officer and
Land Acquisition Officer,
Osmanabad
- ..APPELLANTS
(Ori. Respondents)

VERSUS

Gopal Narharrao Deshpande,
Age : 55 yrs, Occu.Agriculture,
R/o Deolali, Tq. & Dist.
Osmanabad

..RESPONDENT
(Ori. Claimant)

WITH
FIRST APPEAL NO.1212 OF 2015

1. The State of Maharashtra,
Through – The Collector,
Osmanabad
 2. The Divisional Officer and
Land Acquisition Officer,
Osmanabad
- ..APPELLANTS
(Ori. Respondents)

VERSUS

Chandrakant Narharrao Deshpande,
Age : 50 yrs, Occu.Agriculture,
R/o Deolali, Tq. & Dist.
Osmanabad

..RESPONDENT
(Ori. Claimant)

Mr G.R. Ingole, Asstt. Govt. Pleader for appellants;
Mr R.K. Ashtekar, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 29th July, 2015

ORAL ORDER :

By judgment and award dated 21st June, 2011, Civil Judge Senior Division, Osmanabad ordered enhancement of compensation to Rs.7/- per Sq. ft. for the lands owned by the respondents-claimants, in exercise of powers under section 18 of the Land Acquisition Act, which is subject to challenge in the present appeal under section 54 of the said Act.

2. Mr Ingole, learned Asstt. Govt. Pleader appearing on behalf of the appellants would urge that the enhancement is without any basis.

3. Mr Ashtekar, learned Counsel appearing on behalf of the respondents-claimants supports the enhancement of compensation ordered by the learned Reference Court, as according to him, what was granted was based on substantial logical guess work and common sense. According to him, the appeals, therefore, deserve to be dismissed.

4. With the assistance of both Counsel, I have perused the observations made by the learned Reference Court, whereby as against the claim of Rs.15/- per Sq. ft., it has awarded compensation of Rs.7/- Per Sq. ft., as the same was restricted to by the respondents-claimants. The

Land Acquisition Officer has granted compensation at the rate of Rs.25,000/- per Acre.

5. The notification under section 4 of the Land Acquisition Act in the present matters was issued on 14th March, 1991 proposing acquisition of the lands of the respondents, who are real brothers, for the purpose of extension of gaathan. In view of the purpose for which the lands in question were acquired, the non-agricultural potential of the said lands, is not in dispute.

6. With a view to substantiate the claim for enhancement, the respondents relied upon the sale instance dated 26th June, 1985 at Exh.40 and the report of Expert at Exh.47. Both these documents are discarded by the Court below as the Expert, who was examined by the appellants, does not stand to the scrutiny thereof and as such, the same be discarded. So far as sale instance Exh.40 is concerned, the same was not accepted in its entirety, but was subjected to strict scrutiny. The said sale instance was of adjoining village and almost six years prior to the issuance of notification under section 4 of the Act. The learned Reference Court initially reduced the cost of the well by 30% and then added the difference of 60%, particularly in the background of the date of the notification, which is six years after the date of the sale instance. The learned Reference Court, then calculated the enhancement at the rate of

Rs.11/- per Sq. ft., however, since the claim was restricted by the respondents-claimants to Rs.7/- per Sq. ft., proceeded to award the same.

7. While bringing on record the evidence to the extent of entitlement of the claimants for enhancement of compensation of Rs.7/- per Sq. ft. for a land which is adjoining the existing land and was used for the purpose of extension of gaathan and resettlement of village Deolali, no counter evidence was brought on record on behalf of the appellants so as to demonstrate that the award of Rs.7/- per Sq. ft. by the Reference is unreasonable.

8. In view of above, in my opinion, the appreciation by the learned Reference Court, particularly in the background of the law that was considered by it, is just and proper warranting no interference in the impugned judgment and award.

9. In the light of above, the appeals fail and stand dismissed with no order as to costs.

(N.W. SAMBRE, J.)

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