

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

907 FIRST APPEAL NO. 2494 OF 2015

WITH CA/12341/2015 IN FA/2494/2015 WITH FA/2495/2015 WITH
CA/12343/2015 IN FA/2495/2015 WITH FA/2496/2015 WITH
CA/12347/2015 IN FA/2496/2015 WITH FA/2499/2015 WITH
CA/12355/2015 IN FA/2499/2015 WITH FA/2500/2015 WITH
CA/12359/2015 IN FA/2500/2015 WITH FA/2503/2015 WITH
CA/12352/2015 IN FA/2503/2015 WITH FA/2504/2015 WITH
CA/12345/2015 IN FA/2504/2015 WITH FA/2506/2015 WITH
CA/12360/2015 IN FA/2506/2015 WITH FA/2507/2015 WITH
CA/12338/2015 IN FA/2507/2015 WITH FA/2510/2015 WITH
CA/12357/2015 IN FA/2510/2015 WITH FA/2511/2015 WITH
CA/12349/2015 IN FA/2511/2015

EXECUTIVE ENGINEER MEDIUM PROJECT DIVISION OSMANABAD
VERSUS

ANNAPURNA VISHWANATH KAMBLE AND OTHERS

...

Advocate for Appellant : Mr. Sangle Shirish G.

AGP for Respondents State: Mr. A. M. Phule

Advocate for Respondents/Claimants : Mr. Kolpe Mahendra B
WITH

908 FIRST APPEAL NO. 2497 OF 2015

WITH CA/12069/2015 IN FA/2497/2015 WITH FA/2498/2015 WITH
CA/12070/2015 IN FA/2498/2015 WITH FA/2501/2015 WITH
FA/2502/2015 WITH CA/12071/2015 IN FA/2502/2015 WITH
FA/2505/2015 WITH CA/12073/2015 IN FA/2505/2015 WITH
FA/2508/2015 WITH CA/12262/2015 IN FA/2508/2015 WITH
FA/2509/2015 WITH CA/12235/2015 IN FA/2509/2015

EXECUTIVE ENGINEER MEDIUM PROJECT K.K.V.M. DIVISION
OSMANABAD

VERSUS

ANJANABAI BHIVA SABLE AND OTHERS

...

Advocate for Appellant : Mr. Sangle Shirish G.

AGP for Respondents: Mr. S. P. Deshmukh

Advocate for Respondents/claimants : Mr. Sanjay Wakure
WITH

920 CIVIL APPLICATION NO. 13175 OF 2015

IN FAST/29884/2014 WITH CA/12252/2014 IN FAST/29884/2014
WITH CA/12253/2014 IN FAST/29884/2014

GORAKH YADAV KAMBLE DECEASED THR HIS LRS BHARAT AND

ANOTHER
VERSUS
THE EXECUTIVE ENGINEER MEDIUM PROJECT DIVISION OSMANABAD,
NOW UNDER THR MKVDC LTD

...

Advocate for Appellant : Mr. Sangle Shirish G.
AGP for Respondents: Mr. S. P. Deshmukh
Advocate for Respondents/claimants : Mr. Bhagwan S.
Kudale

CORAM : S. V. GANGAPURWALA, J.

DATE : 21th October, 2015

PER COURT :

1. The references filed by the present respondents claimants under section 18 of the Land Acquisition Act are partly allowed. The acquiring body has assailed the said judgment and award in the present appeals.

2. Mr. Sangle, the learned counsel for the appellant submits that the reference court has enhanced the compensation amount on the basis of sale deed dated 13th May, 1994 which is in respect of 20 R land. The said sale instance cannot be said to be an exemplar. Inasmuch as, the same is of small piece of land. According to the learned counsel, the reference court has not considered the situation of the property under the sale deed and that of the acquired land. The same is relevant factor. The learned counsel further submits that the reference court has, only on inference, awarded exorbitant compensation amount.

3. Mr. Kolpe, Mr. Wakure, Mr. Kudale, the learned counsel for the claimants submit that the reference court has properly considered the said deed. It has not granted the same amount of compensation as per value of the land under sale deed. As per the sale deed, valuation of the land is Rs.90,000/- per acre and the said sale deed is of five and half years prior to the notification under section 4 of the Land Acquisition Act, if 10% addition every year is made, the valuation would go to Rs.1,35,000/- per acre. But the reference court has only awarded half of the amount as compensation. It has valued the acquired properties at Rs.67,300/ per acre. Learned counsel further submit that the acquiring body and the State acquiesced with the award passed in other reference i.e. LAR No.1027/2011 which is in respect of the same acquisition. The acquisition is made vide the same notification in the present case.

4. With the assistance of the learned counsel, I have gone through the judgment so also the documents relied by the reference court.

5. The sale deed Exh.19 is in respect of the sale of land of the same village. The said sale deed is in respect of 20 R land, no doubt it is of a smaller area.

The land under the sale deed was valued at Rs.90,000/- per hectare. The said sale deed is five and half years prior to the notification under section 4. 10 % increase every year can be applied. The valuation as on the date of notification under section 4 would come to Rs.1,35,000/- per acre. The court has valued the acquired land @ 50% of the valuation of the land under the sale deed. It is valued 50% only on the ground that the said sale deed is of smaller area of the land. The same appears to be reasonable and proper.

6. There is another facet of the matter. It is submitted that the other land acquisition references were filed by the other claimants bearing Nos. 1027/2011, 1025/2011, 1023/2011, 1029/2011 and 1030 of 2011. In the said references also the court had awarded compensation of Rs.67,300/- per hectare. The same was in respect of the acquisition as in the present case. The State and the acquiring body have not filed any appeal against the said judgment and award. The State and the acquiring body, as such, have acquiesced with the said order. The present acquisition are also from the same village and vide the same notification.

7. Considering the aforesaid conspectus of the

matter, no case for interference is made out. The first appeals are dismissed, however with no order as to costs.

8. The amount deposited by the acquiring body be sent to the reference court.

9. Civil applications also stand disposed of.

(S. V. GANGAPURWALA, J.)

JPC