

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

FIRST APPEAL NO.2956 OF 2013

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.C.R.Bharaswadkar, advocate for the Appellant.
Mr.S.M.Jadhav, Asstt. Govt. Pleader for the State.

CORAM : S.V.GANGAPURWALA, J.
Date : 31.08.2015.

PER COURT :

1. Heard.
2. The Reference U/s 18 of the Land Acquisition Act, is rejected. Mr.Bharaswadkar, learned counsel submits that for the land acquired from the same village and the same project i.e. under Right Canal Vishnupuri, the Reference Court has awarded compensation of Rs.1,10,000/- per hectare. In Reference bearing No.182/2010 the land from Gat No.170 of village Kahala, Tq.Naigaon, Dist.Nanded was acquired. In the present case also the land is situated in the same village and is acquired for the same project. The SLAO has awarded compensation at the rate of Rs.75,000/- per hectare. The learned counsel submits that the State has not filed any appeal against the said award. The SLAO has classified land which is subject matter of Reference No.182/2010 in

E category and the land in the present Reference in a higher category i.e. D. In fact, the Reference Court should have awarded more compensation to the appellant.

3. Mr.Jadhav, learned Asstt. Govt. Pleader submits that there is no record to show similarity of the lands i.e. subject matter of Reference No.182/2010 and the present Reference. The Court has discarded the sale deed. There is no evidence to show the market value of the land to be Rs.1,10,000/- per hectare as against Rs.75,000/- (Rupees seventy five thousand) per hectare determined by the SLAO.

4. I had asked the learned Asstt. Govt. Pleader as to whether the State or the acquiring body has filed appeal against the judgment and award passed in LAR No.182/2010. Upon verification, the learned Asstt. Govt. Pleader and the learned counsel for acquiring body submit that no appeal is filed, meaning thereby the said judgment is accepted by the Respondents.

5. It is not disputed that the land i.e. subject matter of the present appeal is acquired for right canal Vishnupuri and the land subject matter of LAR No.182/2010 is acquired for the same project. Both the lands are situated in the same village. The notification is also within the time gap of six (6) months.

6. However, one more aspect which requires to be considered is the land subject matter of Reference No.182/2010 was

categorised in 'E' category by the SLAO and the land in the present Reference is categorised in 'D' category. SLAO considered the land in the Reference No.182/2010 to be of higher quality and SLAO had awarded more amount to said land. Even land revenue of the land in Reference No.182/2010 is more. In said Reference the Court had granted 20% more compensation than awarded by SLAO and State has accepted the same as it has not filed any appeal.

7. In light of the above, there would be no impediment to award compensation at the rate of Rs.90,000/- (Rupees ninety thousand) per hectare to the claimant for the acquired land i.e. 20% more than awarded by SLAO. SLAO had awarded compensation at Rs.75,000/- (Rupees seventy five thousand) per hectare.

8. In the result, I pass the following order :

a) The First Appeal is partly allowed. The Respondents shall jointly and severally pay the claimant compensation at the rate of Rs.90,000/- (Rupees ninety thousand) per hectare for the acquired land along with all statutory benefits. The Respondents shall also jointly and severally pay the claimant additional component U/s 23(1-A) of the Act..

(S . V . GANGAPURWALA, J .)

Dt.31.08.2015.
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