

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

**CIVIL APPLICATION NO. 2548 OF 2015
WITH
CIVIL APPLICATION NO. 2550 OF 2015
IN
FIRST APPEAL (ST.) NO. 31867 OF 2014**

The GMIDC thr. The Executive
Engineer Medium Project Division,
Nanded.

...Applicant

versus

Shivajirao Namdeorao Patil & ors.

...Respondents

.....
Mr. H. T. Gaikwad, Advocate for applicant.
Mr. S. P. Daund, A. G. P. for respondent/State.
.....

CORAM : N.W. SAMBRE, J.

DATE : 18TH APRIL, 2015

ORAL ORDER :

Heard learned Counsel for the appellant-acquiring body.

2. The acquiring body has moved an application for leave to file appeal as in land reference proceedings, the said authority was not impleaded as party respondent.

3. For the reasons recorded in the application, leave to file appeal is granted.

4. The appeal is taken up for final disposal at admission stage with the consent of the parties.

5. The acquiring body has questioned the award delivered by the Reference Court on 03/05/2010 at the behest of land owner. The Reference Court while dealing with the issue about enhancement of compensation has considered factual matrix brought before it.

6. The land of the appellant was acquired for which notification under Section 4 of the Land Acquisition Act was issued on 22/03/1997, however possession preceded the said Section 4 notification, which was taken 01/01/1997. The award was passed on 21/02/2000 by Land Acquisition Officer awarding market value at Rs. 1,72,331/- for 2 Hectares and 19 Ares of dry land at the rate of Rs. 78,690/- per Hectare and Rs. 2,410/- for 21 Ares of land at the rate of Rs. 11,476/- per Hectare out of the land bearing S.No. 26. Rs. 99,851/- for 1 Hectare 35 Ares of dry land at the rate of Rs. 79,140/- per Hectare out of the land bearing S.No. 28/9/2 and Rs. 1,833/- for 17 Ares of dry land at the rate of Rs. 78,210/- per Hectare. Rs. 3,45,666/- for 2 Hectares and 21 Ares of Perennially irrigated land at the rate of Rs. 1,56,410/- per Hectare and Rs. 105/- for 7 Ares of

potkharaba area at the rate of Rs. 1500/- per Hectare out of the land bearing S. No. 36. So also, he awarded Rs. 35,556/- Rs. 16,302/- and Rs. 39,535/- for trees in the lands bearing S.No. 26 S.No. 28/9/2 and S. No. 36 respectively. He awarded compensation of Rs. 63,279/- and Rs. 22,469/- for the wells in the lands bearing S.No. 26 and S.No. 28/9/2 respectively. He offered total compensation of Rs. 13,30,438/- to the claimant for acquisition of the said lands. Notice u/s 12(2) of the L.A. Act came to be served on him on 25.03.2000. On 9th May, 2000, he accepted the amount of compensation under protest.

7. The claim for enhancement was based on the availability of civic amenities, means of communication in and around the land under acquisition. The Reference Court has taken into account various trees planted in land in question including that of other facilities, such as well, borewell etc. The Reference Court while dealing with the claim for enhancement considered quality and fertility of the land, particularly which was irrigated as crops like pulses, paddy, wheat, cotton, sugarcane etc., were harvested and annual income between Rs.10,000/- to 12,000/- were considered. The Reference Court applied capitalization method and calculated the income to the tune of Rs.2,00,000/- to 2,40,000/- per Acre.

8. The Reference Court also taken into account the sale instances. The Reference Court relied upon Exhibit-42 and Exhibit-44 which are sale deeds dated 26/11/1993 and 08/05/1995 of village Lohgaon, however discarded both the sale deeds being not in the vicinity of land under acquisition. However, learned Reference Court accepted the sale deeds at Exhibits-43 and 45 and based on the same, has proceeded to award the enhanced compensation. The compensation which is ordered, in my opinion, cannot be termed on higher side as capitalization method and independent sale deeds were taken into account while granting enhancement.

9. The Reference Court has given cogent reasons in support thereof, as such, no case for interference is made out. The appeal fails, stand dismissed.

10. In view of dismissal of appeal, civil application for stay stands disposed of.

[N.W. SAMBRE, J.]