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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1070/2015
WITH
CIVIL APPLICATION NO.4894/2015
WITH
FIRST APPEAL NO.1065/2015
WITH
CIVIL APPLICATION NO.4900/2015
WITH
FIRST APPEAL NO.1066/2015
WITH
CIVIL APPLICATION NO.4899/2015
WITH
FIRST APPEAL NO.1067/2015
WITH
CIVIL APPLICATION NO.4898/2015
WITH
FIRST APPEAL NO.1068/2015
WITH
CIVIL APPLICATION NO.4897/2015
WITH
FIRST APPEAL NO.1069/2015
WITH
CIVIL APPLICATION NO.4896/2015
WITH
FIRST APPEAL NO.1071/2015
WITH
CIVIL APPLICATION NO.4895/2015

The State of Maharashtra & another.
...Appellants..

Versus

Anna Sayaji Thorat & others.
...Respondents...

.....
Shri G.R. Ingole, AGP for appellants.
Shri C.K. Shinde, Advocate for respondents - claimants.
.....

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CORAM: N.W. SAMBRE, J.

DATE: 17.07.2015

ORDER :

1] Heard Shri G.R. Ingole, learned AGP for the appellants and Shri C.K. Shinde, learned counsel for the respondents – claimants.

2] Present appeals are by the State Government and the acquiring body questioning the awards delivered by the Joint Civil Judge, Senior Division, Beed, on March 12, 2012, enhancing the compensation in favour of the respondents.

3] Facts as are necessary for deciding the present first appeals are as under:

a] The lands in question were acquired for percolation tank in village Ambora Tq.Ashti Dist.Beed for which prior to Section 4 notification, the possession was taken on September 4, 2003. Section 4 notification came to be issued on February 16, 2003 and the award u/s 11 of the Land Acquisition Act was declared on 24.10.2007. The compensation was received by the claimants on November 20, 2010.

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b] The Special Land Acquisition Officer, who has passed the award in the matter, has taken into account the prevailing market rates and declared the price of the land acquired at Rs.460/- and Rs.560/- per Aare based on the location.

c] The respondents claimants feeling aggrieved thereby claimed enhancement at the rate of Rs.2,000/- per Aare i.e. Rs.80,000/- per Acre.

d] The claimants have adduced evidence in support of their claim resulting into the enhancement of the compensation at the rate of Rs.1500/- per Aare and as such the Reference Court directed the present appellants to pay the compensation. Feeling aggrieved thereby, present appeals are preferred by the appellants.

4] Learned Assistant Government Pleader for the appellants would strenuously urge that the Reference Court has committed an error in enhancing the compensation particularly in absence of any cogent evidence to that effect. In addition to above, he would also urge that the quality of the lands, the cropping pattern and the location of the lands, of which sale

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instances are cited, were not appropriately appreciated and as such has sought to raise the ground of perversity.

5] Shri C.K. Shinde, learned counsel for the respondents – claimants, would urge that the learned Special Land Acquisition Officer has awarded compensation at a very meagre rate, which was rightly enhanced by the Reference Court taking into account the sale instances, which were about two to four years prior to the date of Section 4 notification. According to him, the market value as is calculated by the Reference Court is just and proper.

6] So as to analyse the submissions of the respective parties, I have bestowed my anxious thoughts to the submissions, pleadings and the evidence on record. With the assistance of learned counsel for both the parties, I have perused the judgment delivered by the Reference Court.

7] Upon perusal of the said judgment, it is noted that one Narayan Thorat was examined in support of the claim petition at Exhibit 12 and he has produced copy of the award dated 24.10.2007 at Exhibit 13 in other matter, "E" statement of the land at Exhibit 14, certified copy of

the saledeeds dated 19.9.2002; 25.2.2003; and 19.9.2002 at Exhibits 22, 23 and 24 respectively. In addition to above, they have also produced at Exhibits 15 to 20, the 7/12 extracts of the lands under acquisition and the village map at Exhibit 21 so as to describe and show relevancy of the lands covered under the saledeeds (Exhibits 22 and 24) with that of the lands under acquisition.

8] The Reference Court in the present case, out of the three methods which are available for ascertaining the appropriate compensation, has taken recourse to the comparable sale instance method and excluded the expert opinion and capitalization method. While doing so, the Reference Court has taken into account the quality of the land in question.

9] From the perusal of the 7/12 extracts i.e. Exhibits 15 to 20, it reveals that the crops like ground-nut, wheat, sugarcane, Jawar and other Bagayat crops were harvested. It is also noted from the 7/12 extracts (Exhibits 16, 18 and 19) that no irrigation facility was available in Survey Nos.59, 57/2, 61/2 and 61/4, whereas in Survey Nos.60/1 and 60/2, the irrigation facility was

available.

10] Though the respondents – claimants claim an enhancement at the rate of Rs.80,000/- per Acre, the Reference Court has relied upon the sale instances (Exhibits 22 and 24) for enhancing the compensation and fixing the price of the land at Rs.2032/- per Aare, which was under the above-referred sale instances.

11] The Reference Court, having regard to the date on which the said sale instances, as are mentioned in Exhibits 22 and 24, has noted that the land in question was sold at Rs.1357/- and Rs.2707/- per Aare respectively. While calculating the market price, the Reference Court then added the difference in the market price as the sale instances cited were of about two to three years old period and as such fixed the price of the land. Based on the same, the Reference Court has proceeded to enhance the compensation by fixing the market price of the acquired land at the rate of Rs.1500/- per Aare.

12] From the record so also from the observations of the Reference Court, it could be noticed that the entries from the 7/12 extracts (Exhibits 15 to 20), the village

map (Exhibit 21) were taken for comparing the location of the land acquired with that of the land under the sale instances (Exhibits 22 and 24) wherein it was noticed that both the lands under the sale deed are adjacent to the land under acquisition. Apart from above, the Reference Court has rightly proceeded to calculate the price of the land under acquisition at the rate of Rs.1500/- per Aare.

13] In my opinion, the submissions as are canvassed by the learned Assistant Government Pleader sans any basis either in the evidence or in the pleadings. As such the present appeals fail and stand dismissed. There shall be no order as to costs.

14] At this stage, learned counsel for the respondents makes a motion that the claimants may be permitted to withdraw the amount. Since the appeals of the State are dismissed and the amount is already deposited before the Court below, in my opinion, it will be appropriate to grant liberty to the present respondents – claimants to approach the Court, before whom the acquiring body / appellants have deposited the amount, which shall consider the claim for withdrawal of the amount in the

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background of dismissal of the present appeals.
Accordingly, all civil applications filed in these
appeals for withdrawal of the amount stand disposed of.

(N.W. SAMBRE, J.)