

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION O. NO.186/2015

AND

CROSS-OBJECTION NO.8/2015

IN

FIRST APPEAL NO.236/1992 (D)

The State of Maharashtra, through the Collector, Yavatmal and another

...Versus...

Madhao Janglu Kajale (Dead) through L.Rs.

Smt. Kokilabai wd/o Madhaorao Kajale and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.A. Kadu, AGP for appellants
Shri D.G. Patil, Advocate for respondents/applicants

CORAM : Z.A. HAQ, J.

DATE : 18.02.2015

P.C.

CIVIL APPLICATION O. NO.186/2015

Heard the learned Advocates for the respective parties.

For the reasons stated in the civil application and as the cross-objection is in First Appeal No.236/1992, the prayer for grant of early hearing is allowed.

CROSS-OBJECTION NO.8/2015

1. Taken up on board. Heard the learned Advocates for the respective parties.
2. The first appeal filed by the State of Maharashtra through its authorities challenging the order passed by the Reference Court under Section 18 of the Land Acquisition Act, 1894 is dismissed for want of prosecution in 2005, however, the cross-objection remained to be decided.
3. The agricultural land admeasuring 7 Hectares 37 R owned by the cross-objector/land owner was acquired pursuant to the notification published under Section 4 of the Land Acquisition Act, 1894 on 14.3.1984. The award was made on 24.9.1986 by which the Land Acquisition Officer granted compensation @ Rs.8,850/- per hectare. The land owner being dissatisfied with the amount of compensation granted by the Land Acquisition Officer had filed reference under Section 18 of the Land Acquisition Act, 1894. The reference Court, by the impugned order, concluded that the land owner is entitled for the compensation @ Rs.22,500/- per hectare and accordingly, granted the enhanced amount of compensation along with statutory benefits. The State of Maharashtra and its authorities being aggrieved in the matter had filed First Appeal No.236/1992 which came to be dismissed for want of prosecution in 2005. The appellants have not taken any steps to get the first appeal restored. The cross-objection remained to be decided.
4. Shri D.G. Patil, the learned Advocate for the cross-objector/land owner has submitted that the reference Court has committed an error in restricting the compensation

@ Rs.22,500/- per hectare only instead of granting compensation @ Rs.25,000/- per hectare as claimed by the land owner. It is submitted that the land owner had placed on record the sale-deed (Exh.25) which shows that 4 acres 30 gunthas of land was sold for Rs.40,000/- in 1977 and this land was in the vicinity of the land of the cross-objector. It is submitted that the reference Court has recorded in paragraph no.17 of the impugned order that the land which was sold by the sale-deed (Exh.25) was situated at Mokh which is 1 km. away from Mandawa where the land of the cross-objector was situated.

5. Relying on the observations of the reference Court in paragraph no.20 of the impugned order, it is submitted that the reference Court should have considered the net income from the acquired land at Rs.700/- per acre per year and applying the multiplier of 15, the amount of compensation should have been determined at Rs.10,500/- per acre, which comes to Rs.26,500/- per hectare. It is submitted that the claim made by the cross-objector for the amount of compensation at Rs.25,000/- per hectare cannot be said to be unjustified. In support of his submissions, the learned Advocate has relied on the judgment given by this Court in the case of State of Goa and another...Versus...Yashodi Y. Dessai (D) through L.Rs. and others, reported in 2013 (5) Mh.L.J. 132 and in First Appeal No.852/1991.

6. Shri M.A. Kadu, the learned Assistant Government Pleader has opposed the claim made on behalf of the cross-objector and it is submitted that the cross-objector has not placed any documentary evidence on the record to justify his claim. It is submitted that the multiplier of 15 cannot be applied

and at the most the multiplier of 10 to 12 can be applied for determining the amount of compensation on the basis of the income yield from the acquired land. It is prayed that the cross-objection be dismissed.

7. After hearing the learned Advocates for the respective parties, the following point arises for consideration :

Whether the cross-objector/land owner is entitled for the compensation @ Rs.25,000/- per hectare ?

8. Considering the observations of the reference Court in paragraph no.20 of the impugned order, the submission made on behalf of the cross-objector/land owner that the land owner was getting net income of Rs.700/- per acre per year from the acquired land has to be accepted. The only dispute is about the applicability of the multiplier. Considering the judgment given by this Court in the case of State of Goa and another...Versus...Yashodi Y. Dessai (D) through L.Rs. and others, reported in 2013 (5) Mh.L.J. 132 and in First Appeal No.852/1991, in my view, the amount of compensation can be determined at Rs.25,000/- per hectare. Hence, the following order :

(i) It is held that the cross-objector/land owner is entitled for the compensation @ Rs.25,000/- per hectare. The reference Court has granted compensation @ Rs.22,500/- per hectare. After deducting the amount granted by the reference Court, the cross-objector/land owner is entitled for enhanced

amount of compensation @ Rs.2,500/- (Rupees Two Thousand Five Hundred Only) per hectare.

(ii) The cross-objector/land owner would be entitled for the statutory benefits on the enhanced amount of compensation.

(iii) The order passed by the reference Court is modified in the above terms.

(iv) The cross-objection is allowed accordingly. In the circumstances, the parties to bear their own costs.

JUDGE

Wadkar