

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

FIRST APPEAL NO. 364 OF 2002

Zilla Parishad, Jalgaon,
through its Chief Executive Officer
and EE. I & W.S. Jalgaon.

**....Appellant.
(Third Party)**

Versus

Narayan Hari Sonawane,
Age 38 years, Occu. Agri.,
R/o. Kandari, Tq. Jalgaon,
Dist. Jalgaon.

**....Respondent.
(Claimant)**

Mr. A.G. Kanade, Advocate for appellant.

Mr. V.D. Gunale, Advocate for respondent.

CORAM : T.V. NALAWADE, J.
DATED : 22nd February, 2016.

JUDGMENT :

1) The appeal is filed to challenge the judgment and award of Land Acquisition Reference No. 1056/1998, which was pending before the Reference Court, Jalgaon, Civil Judge, Senior Division, Jalgaon. The Acquiring Body has challenged the decision as compensation is enhanced by the Reference Court. Both the sides are heard.

2) The land admeasuring 3 Hectar 13 R. of the original claimant from village Kandari, Taluka and District Jalgaon was

acquired under the provisions of the Land Acquisition Act (hereinafter referred to as 'the Act' for short) for creation of percolation tank at Kandari. The notification under section 4 of the Act was published in official gazette on 18.10.1984. The Special Land Acquisition Officer (SLAO) prepared the award on 16.10.1987 and gave the rate of around Rs. 131 per R. The Reference Court has increased this rate to make it Rs. 462/- per R.

3) Before the Reference Court the claimant proved the sale instance of village Nashirabad which is at Exh. 9. The distance between two villages is more than one and half kilo meters. It was contended that no sale instance of village Kandari was available as transactions for that area were prohibited. Under the sale instance, land admeasuring 55 R. was sold for consideration of Rs. 41,000/-. As the transaction was of 28.12.1981, 10% increase was given in the rate by the Reference Court and the market price on the relevant date was ascertained as Rs. 96,908/-. Considering the facilities which were available to the sale instance land and the fact that Nashirabad is more developed village than village Kandari and as it was situated at the distance of atleast one and half kilo meter from the acquired land, the Reference Court has reduced the price

shown in the sale instance by more than 50% and it is held that on the relevant date, market price of the acquired land was around Rs. 45,000/- per Hector.

4) As against the aforesaid record, the award prepared by the SLAO shows that he prepared many groups of Jirayat land (around six groups) on the basis of land revenue. In the award prepared by SLAO, there is mention that some sale instances were considered by him, but in the award not a single sale instance is mentioned and in the award there is no list of sale instances considered by the SLAO. When the evidence of aforesaid nature was given by the claimant before Reference Court, nothing in rebuttal was given by the appellant, Acquiring Body. In view of these circumstances, the Reference Court has adopted the aforesaid procedure and used the sale instance proved by the claimant. This Court holds that no error is committed by the Reference Court in using the aforesaid method. As there was nothing in rebuttal, following order is made.

ORDER

(i) Appeal stand dismissed.

[T.V. NALAWADE, J.]

SSC/