

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**7 FIRST APPEAL NO.1803 OF 2012
WITH CA/3229/2011 IN FA/1803/2012**

WITH

FA/1804/2012 WITH CA/3217/2011 IN FA/1804/2012
WITH FA/1805/2012 WITH CA/3211/2011 IN
FA/1805/2012 WITH FA/1806/2012 WITH CA/3227/2011
IN FA/1806/2012 WITH FA/1807/2012 WITH
CA/3245/2011 IN FA/1807/2012 WITH FA/1808/2012
WITH CA/3202/2011 IN FA/1808/2012 WITH
FA/1809/2012 WITH CA/3233/2011 IN FA/1809/2012
WITH FA/1810/2012 WITH CA/3242/2011 IN
FA/1810/2012 WITH FA/1811/2012 WITH CA/3248/2011
IN FA/1811/2012 WITH FA/1812/2012 WITH
CA/3239/2011 IN FA/1812/2012 WITH FA/1813/2012
WITH CA/3205/2011 IN FA/1813/2012 WITH
FA/1825/2012 WITH CA/3236/2011 IN FA/1825/2012
WITH FA/1826/2012 WITH CA/3208/2011 IN
FA/1826/2012 WITH FA/1827/2012 WITH CA/3214/2011
IN FA/1827/2012

GODAVARI MARATHWADA IRRIGATION DEVELOPMENT
CORPORATION, AURANGABAD THROUGH EXECUTIVE
ENGINEER MINOR IRRIGATION DIVISION LATUR
VERSUS

SATISH VENKATRAO YERME AND ANR

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Advocate for Appellant : Mr. Biradar R.D.
Mr. G.O.Wattamwar, AGP for State;
Mr. S S Halkude, Adv. For Respondent/claimant;

CORAM : P.R.BORA, J.

DATE : 13th December, 2016.

PER COURT :

- 1) Heard. In the present group of appeals,
common judgment and award passed by Joint Civil

Judge, Senior Division, Ahmedpur in LAR No. 264/2005 with the connected LARs, decided on 1st April, 2009, is challenged by the acquiring body.

2) The lands, which are the subject matter of the present appeals, were acquired for the purpose of construction of Yestar Storage tank project. Notification under Section 4 of the Land Acquisition Act, 1894 (for short, the Act) in that regard was published in the Government Gazette on 5.7.2001 whereas Award under Section 11 of the Act came to be passed on 4th July, 2002.

. The Special Land Acquisition Officer (for short, SLAO) had fixed the market value of the acquired lands at the rate of Rs.58,500/- per hectare and has accordingly offered the amount of compensation to the respective claimants.

. Dissatisfied with the amount of compensation so offered, the claimants had filed applications under Section 18 of the Act and the said applications were forwarded by the District Collector, Latur for adjudication to the civil

court at Latur. The(hereinafter referred to as Reference Court) claimants had claimed the market value @ Rs.5,00,000/- per hectare before the Reference Court. In order to substantiate the claim so raised by them, the claimants, in addition to their own testimonies, had commonly relied upon two sale instances (Exhibits-18 and 19). No oral evidence was adduced on behalf of the acquiring body or the State, neither any sale instance was placed on record by the State.

. The learned Reference Court, after having assessed the oral and documentary evidence brought before it, determined the market value of the acquired lands @ Rs.1,17,000/- per hectare and accordingly enhanced the amount of compensation. The Reference Court also held the claimants entitled for the statutory benefits and the interest on the enhanced amount of compensation. Aggrieved by, the acquiring body has filed the present appeals.

3) Shri Biradar, learned Counsel appearing

for the appellant acquiring body, submitted that the Reference Court has implicitly relied upon the sale instances placed on record by the claimants. The learned Counsel further submitted that if the discussion made by the Reference Court in the impugned judgment is considered, it appears that the Reference Court itself was not sure whether the sale instances, relied upon by the claimants, can be held to be comparable sale instances. The learned Counsel further submitted that the Reference court has failed in appreciating that both the sale instances were of the period after issuance of the notification under Section 4 of the Act and as such, no reliance could have been placed on such sale instances by the Reference Court to determine the market value of the acquired lands. The learned Counsel further submitted that as against it, the SLAO had taken into account all the circumstances and several sale instances while fixing the market value of the acquired lands. The learned Counsel submitted that the SLAO had also

personally visited the acquired lands and thereafter has determined the market value of the said lands. The learned Counsel, therefore, prayed for setting aside the impugned judgment and Award and to re-determine the market value of the acquired lands.

4) Learned Counsel appearing for the respondents – original claimants has supported the impugned judgment and Award. The learned Counsel contended that the Reference Court has appropriately discussed the evidence on record and rightly determined the market value of the acquired lands. The learned Counsel submitted that no interference is required in the impugned judgment and Award.

5) I have carefully considered the submissions advanced on behalf of the acquiring body and the original claimants. I have also perused the impugned judgment and Award and the evidence on record. Admittedly, no evidence was

adduced on behalf of the State or the acquiring body before the Reference Court. The acquiring body and the State have also not placed on record any sale instances before the reference court. It is thus evident that the oral testimonies of the respective claimants and the two sale instances commonly relied upon by the claimants, were the only material before the Reference Court while determining the market value of the acquired lands.

. Two sale instances were relied upon by the claimants which are at Exhibits-18 and 19. The Reference Court in para 16 onwards has elaborately discussed the evidence in that regard. It is not in dispute that both the sale instances were of the period after issuance of the notification under Section 4 of the Act. The lands, which were the subject matter of the sale deeds at Exh. 18 and 19, had received the consideration @ Rs.2,66,600/- per hectare. The Reference Court in para 21 has elaborately discussed as to on what grounds it has determined

the market value of the acquired lands. The discussion made by the Reference Court reveal that the Reference Court has taken into account the aspects that the sale deeds were executed after the period of issuance of notification under Section 4 of the Act and, therefore, has held the market value of the acquired lands to half of the consideration received to the lands which were the subject matter of Exhibits- 18 and 19. The Reference Court has further considered that the lands which were the subject matter of Exhibits 18 and 19 were appearing to have been purchased for some commercial purpose. The reference court has, therefore, further decreased the market value of the acquired lands and has ultimately fixed the market value of the acquired lands @ Rs.1,17,000/- per hectare.

6) After having gone through the discussion made by the Reference Court, it does not appear to me that the Reference Court has arbitrarily determined the market value of the acquired lands

or has determined the same on higher side. Considering the material on record, it does not appear to me that any interference is warranted in the impugned judgment and Award. There appears no merit in the appeals filed by the acquiring body. Hence, the following order, -

ORDER

- i) The appeals are dismissed, however, without any order as to costs;
- ii) Pending Civil Applications, if any, stand disposed of.

(P. R. BORA)
JUDGE

bdv/