

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

FIRST APPEAL NO. 464 OF 2006
WITH
CIVIL APPLICATION NO. 7359 OF 2009
WITH
CIVIL APPLICATION NO. 16342 OF 2015

1. Pandurang s/o. Hariba Jadhav,
Age 62 years, Occu. Agril.,
R/o. Samudral, Tq. Omerga,
Dist. Osmanabad.
2. Umesh s/o. Pandurang Jadhav,
Age 32 years, Occu. Agril.,
R/o. Samudral, Tq. Omerga,
Dist. Osmanabad.

....Appellant.
(Ori. Claimants)

Versus

1. The State of Maharashtra
Through the Collector, Osmanabad.
2. The Special Land Acquisition
Officer, Manjra Project, Osmanabad.

....Respondents.
(Ori. Respondents)

Mr. P. K. Deshmukh Advocate for appellants.

Mr. A.R. Borulkar, AGP for respondents.

CORAM : T.V. NALAWADE, J.
DATED : 25th February, 2016.

JUDGMENT :

1) Appeal is filed against judgment and award of L.A.R. No. 523/2004 (old No. 367/1996), which was pending in the Court of Ad-hoc District Judge, Umerga, the Reference Court. The Reference Court has dismissed the claim of the present

appellants, owners of the land filed for compensation amount filed under section 18 of the Land Acquisition Act (hereinafter referred to as 'the Act' for short). So, the decision is challenged. Both the sides are heard.

2) The decision given by the Reference Court shows that no evidence at all was given to show that the claimants are entitled to higher rate, more amount of compensation. In the present proceeding, in Civil Application No. 7359/2009, the appellants have produced copies of some judgments delivered by the Reference Court in similar matters. The lands of the present applicants and other lands shown in the other references were acquired for rehabilitation of earthquake hit persons from Osmanabad and Latur District in the year 1993. The record is produced to show that in some cases, the Reference Court has granted Rs. 4/- per Sq. Ft., Rs. 13/- per Sq. Ft. and in one matter decided by this Court the rate of Rs. 17/- per Sq. Ft. was given. As against such rates, the Land Acquisition Officer gave total amount of Rs. 15,400/- when area of 5 Acres 20 Gunta of present appellants was acquired. The submission are made by the learned counsel for appellants that on the basis of other decisions which are produced on record of adjacent village, the claimants are entitled to get higher rate. As the reference was

dismissed as no evidence was given and there are aforesaid circumstances, this Court holds that opportunity needs to be given to the appellants, claimants to lead evidence and to prove that they are entitled to get more amount of compensation. In the result, following order is made.

ORDER

- (i) Civil Application filed for leading additional evidence is allowed.
- (ii) First Appeal is allowed. The judgment and award of the Reference Court is hereby set aside. The matter is remanded back to the Reference Court for fresh trial. During fresh trial, the Reference Court is to give opportunity to both the sides to lead the evidence. The Reference Court is expected to expedite the matter and in any case, within six months from the date of receipt of the order made by this Court. All civil applications disposed of.

[T.V. NALAWADE, J.]

ssc/