

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.563 OF 2004

1. The Special Land Acquisition
Officer, M.I.W., Jalgaon.
 2. The Executive Engineer,
M.I. Division, Jalgaon
- ...APPELLANTS**
(Ori. Respondents)

VERSUS

Raghunath Ratan Pardhi,
Age : 35 years, Occu: Farmer,
R/o. Bhoras Tq. Raver,
Dist. Jalgaon.

...RESPONDENT
(Ori. Claimant)

WITH

FIRST APPEAL NO.562 OF 2004

1. The Special Land Acquisition
Officer, M.I.W., Jalgaon.
 2. The Executive Engineer,
M.I. Division, Jalgaon
- ...APPELLANTS**
(Ori. Respondents)

VERSUS

Yuvraj Babulal Koli,
Age: 40 Years, Occu: Farmer,
R/o. Chalisgaon, Dist. Jalgaon

...RESPONDENT
(Ori. Claimant)

WITH

FIRST APPEAL NO.564 OF 2004

1. The Special Land Acquisition
Officer, M.I.W. Jalgaon,
2. The Executive Engineer,
M.I. Division, Jalgaon

...APPELLANTS
(Ori. Respondents)

VERSUS

1. Fakira Mahadu Dhangar
2. Kachru Mahadu Dhangar
3. Laxmibai Mahadu Dhangar

All farmer and R/o Bilakhed,
Tq. Chalisgaon, Dist.Jalgaon.

...RESPONDENTS
(Ori. Claimants)

WITH

FIRST APPEAL NO.565 OF 2004

1. The Special Land Acquisition
Officer, M.I.W. Jalgaon,
2. The Executive Engineer,
M.I. Division, Jalgaon

...APPELLANTS
(Ori. Respondents)

VERSUS

Shrawan Valha Dhangar
Age: 61 years, Occu: Farmer,
R/o. Bilakhed Tq. Chalisgaon,
Dist. Jalgaon

...RESPONDENT
(Ori. Claimant)

WITH

FIRST APPEAL NO.566 OF 2004

1. The Special Land Acquisition
Officer, M.I.W. Jalgaon,

2. The Executive Engineer,
M.I. Division, Jalgaon

...APPELLANTS
(Ori. Respondents)

VERSUS

Narayan Valha Dhangar
Age: 57 years, Occu: Farmer,
R/o. Bilakhed, Tq. Chalisgaon,
Dist. Jalgaon

...RESPONDENT
(Ori. Claimant)

WITH

FIRST APPEAL NO.567 OF 2004

1. The Special Land Acquisition
Officer, M.I.W. Jalgaon.
2. The Executive Engineer,
M.I. Division, Jalgaon

...APPELLANTS
(Ori. Respondents)

VERSUS

Zopa Valha Dhangar
Age: 59 years, Occu: Farmer,
R/o. Bilakhed, Tq. Chalisgaon,
Dist. Jalgaon

...RESPONDENT
(Ori. Claimant)

WITH

FIRST APPEAL NO.568 OF 2004

1. The Special Land Acquisition
Officer, M.I.W. Jalgaon.
2. The Executive Engineer,
M.I. Division, Jalgaon

...APPELLANTS
(Ori. Respondents)

VERSUS

Bhalchandra Ramchandra Pardhi
Age: 65 years, Occu: Farmer,
R/o. Bhoras, Tq. Chalisgaon,
Dist. Jalgaon

**...RESPONDENT
(Ori. Claimant)**

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Mr.S.N.Morampalle, AGP for Appellants;

Mr.P.A.Bhosale, Adv. h/for Mr. A.B.Kale, Advocate
for the Respondent/s.

CORAM : P.R.BORA, J.

DATE : 31st August, 2016.

ORAL JUDGMENT:

1) Heard learned Counsel appearing for the parties.

2) The State has filed the present appeals against the common judgment and Award passed by the Civil Judge, Senior Division, at Jalgaon (hereinafter referred to as Reference Court) on 1st April, 2000 in LAR No.112/2002 with the connected LARs. The lands were acquired for

construction of minor irrigation tank at village Deoli Bhoras, Tehsil Chalisgaon District Jalgaon. Section 4 Notification of the Land Acquisition Act, 1894 (for short, the Act), was published on 14th March, 1996; whereas Award under Section 11 of the Act came to be passed on 31st March, 1999.

3) The Special Land Acquisition Officer (for short, SLAO) had offered the compensation to the respective claimants/land holders by determining the market value of the acquired lands @ Rs.58,000/- per hectare.

4) Dissatisfied with the compensation so offered, the respective land holders preferred applications under Section 18 of the Act to Collector, Jalgaon, who in turn, forwarded the said Applications to the Civil Court at Jalgaon for adjudication.

5) Before the Reference Court the claimants had claimed compensation of Rs.3,00,000/- per

acre. Though, several Reference Applications were filed, common evidence was adduced in all of such petitions. Two sale-instances were placed on record by the claimants in order to substantiate their claim as regards to the market value of the acquired lands. No oral or documentary evidence was adduced by the State/SLAO.

6) The learned Reference Court, after having assessed the oral and documentary evidence adduced before it, determined the market value of the acquired lands @ Rs.3,00,000/- per hectare and accordingly, awarded the compensation to the respective land holders with the statutory benefits under the Act. Aggrieved by the same, the State has filed the present appeals.

7) Shri Morampalle, learned AGP, appearing for the appellant/State, assailed the impugned Award on various grounds. The learned AGP submitted that the SLAO had fixed the market

value after having considered several sale instances of the relevant period of the comparable lands and as such, no interference was called for in the amount of compensation so offered by the SLAO.

. Learned AGP further submitted that the sale instance, which was cited by the claimants and which has been relied upon by the Reference Court in determining the amount of compensation cannot be said to be a comparable sale instance since in all respect, the land, which was the subject matter in the said sale deed, was different than the acquired lands.

. Learned AGP further submitted that the Reference Court has enhanced the amount of compensation by six times than fixed by the SLAO without there being any cogent and sufficient evidence and he, therefore, prayed for setting aside the impugned Award and to confirm the price, as was offered by the SLAO in the Award passed under Section 11 of the Act.

8) Shri A.B.Kale, learned Counsel appearing for the claimants supported the impugned judgment. The learned Counsel submitted that two sale instances were placed on record by the claimants and in fact, the learned Reference Court must have relied upon the sale instance and must have determined the market value of the acquired lands on the basis of the sale deed wherein higher price was received to the subject land.

. The learned Counsel further submitted that the sale instance, relying on which the Reference Court has determined the amount of compensation, was executed on 2nd February, 1995 and was from the same village Bilakhed. The learned Counsel further submitted that the land, which was sold vide the aforesaid sale deed, was admeasuring 96 Ares and had fetched the price of Rs.2,65,000/-. The learned Counsel submitted that the Reference Court has, therefore, rightly determined the amount of compensation to the tune of Rs.3,00,000/- per hectare. The learned

Counsel, therefore, prayed for dismissal of the appeals filed by the State.

9) I have carefully considered the submissions advanced on behalf of the parties. I have also perused the impugned judgment as well as the evidence on record. The material on record reveals that one Nana Eknath Patil had deposed on behalf of the claimants in the group of the present appeals. Power of Attorney to depose on his behalf was executed by the respective claimants, which is there on record at Exhibit-18. The said witness has deposed that the market value of the acquired lands at the relevant time, was around Rs.3,00,000/- per acre and had accordingly prayed for determination of the market value of the acquired lands and to award compensation accordingly.

. In addition to evidence of Nana Eknath Patil, one more witness, viz. Latifkha Dakerkha was examined on behalf of the claimants, who was an attesting witness to the sale deed of the land

bearing Gut No. 97/1, admeasuring 96 Ares of village Bilakhed, which was sold to one Gangadhar Hiranman Dhangar by Jagan Dhansingh Rathod by way of registered sale deed, executed on 2nd February, 1995 for the consideration of Rs.2,65,000/-. The concerned sale-deed was duly proved during the course of the evidence of the said witness.

10) Relying on the aforesaid sale-instance, brought on record by the claimants and duly proved by them, the Reference Court has determined the market value of the acquired lands and has accordingly awarded the compensation. Perusal of the impugned judgment reveals that in para 6 thereof, the Reference Court has discussed the evidence as about the comparable sale instance brought on record by the claimants. Though now it has been sought to be canvassed by the State that the sale instance brought on record was not of a comparable land and could not have been relied upon by the Reference Court in determining the market value of the acquired

land, in the cross-examination of PW 2 – Latifkha, nothing has been brought on record so as to draw any inference that the land, which was the subject matter of the sale instance was not of a comparable land and the market value of the acquired lands, could not have been determined on the basis of the price received to the said land. Admittedly, the land which was the subject matter of sale-deed at Exh.19, was of village Bilakhed and the sale instance had occurred on 2nd February, 1995. It has come on record in the evidence of PW 2 – Latifkha that the land which was the subject matter of the sale-deed at Exh.19, was in the vicinity of the acquired lands and from the same village. It has also come on record in his evidence that village Bilakhed is about 5 kms from Chalisgaon town. The said witness has further deposed that village Bilakhed is on the high-way running between Chalisgaon – Malegaon. In so far as quality of the land is concerned, the said witness has deposed that the acquired lands were superior than the land which

was the subject matter of sale-deed at Exh.19. In the cross-examination, except putting certain suggestions, which of course are denied by the said witness, nothing has been brought on record so as to discard the testimony of the said witness or to draw any other inference or for not considering the sale-deed, which was proved during the course of the evidence of said witness.

11) Admittedly, no evidence was adduced on behalf of the State or Special Land Acquisition Officer. In the circumstances, the Reference Court has determined the market value of the acquired lands on the basis of sale-instance which was brought on record by the claimants. As stated herein above, the land, which was the subject matter of Exh.19, was admeasuring 96 Ares and had received the consideration of Rs. 2,65,000/-. The learned Reference Court in paras 6 and 8 of the impugned judgment has elaborately discussed the evidence in that regard and had

also explained the reasons for determining the market value on the basis of the said sale-deed. The Reference Court has also observed that the sale-deed, which was relied upon by the claimants was executed on 2nd February, 1995, i.e. prior to about one year of issuance of Section 4 Notification in respect of the acquired lands. In the circumstances, giving escalation of 10% increase, the Reference Court has determined the market value of the acquired lands @ Rs.3,00,000/- per hectare. Admittedly, the acquired land are Jirayat lands and the sale instance which was relied upon is also pertaining to Jirayat land. In the circumstances, It does not appear to me that any error is committed by the Reference Court in passing the impugned Award. There is no merit in the appeals. Hence, the following order, -

ORDER

- i) The appeals are dismissed. No order as to costs. Pending civil applications, if any, stand disposed of.

ii) The compensation amount, if any, deposited by the appellants in this Court, is permitted to be withdrawn by the respective claimants in terms of the respective Awards, if already not withdrawn by them.

sd/-
(P . R . BORA)
JUDGE

bdv/jt

Cause title-Kodgire