

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

FIRST APPEAL NO. 1685 OF 2007

Achyut s/o. Nuroba Thorat,
Age 49 years, Occu. Agri.,
R/o. Ban-Karanja, Tq. Kaij,
Dist. Beed.

....Appellant.

Versus

The State of Maharashtra,
Through District Collector, Beed.

....Respondent.

Mr. R.A. Deshmukh h/f. Mr. S.S. Thombre, Advocate for appellant.
Mr. K.N. Lokhande, AGP for State.

WITH
FIRST APPEAL NO. 2869 OF 2008

The State of Maharashtra,
Through District Collector, Beed.

....Appellant.

Versus

Achyut s/o. Nuroba Thorat,
Age 48 years, Occu. Agriculture,
R/o. Bankaranja, Tq. Kaij,
Dist. Beed.

....Respondent.

Mr. K.N. Lokhande, AGP for appellant/State.

Mr. R.A. Deshmukh h/f. Mr. S.S. Thombre, Advocate for
respondent.

CORAM : T.V. NALAWADE, J.
DATED : 11th February, 2016.

JUDGMENT :

1) First Appeal No. 1685/2007 is filed by the original
claimant and First Appeal No. 2869/2008 is filed by the State, to

challenge the judgment and award of the Reference Court, which was pending before the IInd Ad-hoc Additional District Judge, Ambajogai, District Beed. The Reference Court has enhanced the compensation, but the rate as expected by the claimant and the State is not given and so, the appeals are filed. Both the sides are heard.

2) The land of claimant was acquired for rehabilitation of village Bankaranja, Tahsil Kaij, District Beed and the land acquired is also situated in village Bankaranja. Notification under section 4 of the Land Acquisition Act was published in official gazette on 9.1.1994. The Special Land Acquisition Officer (SLAO) gave rate of Rs. 100/- per R. Before the Reference Court, the claimant relied on two sale instances. The Reference Court has increased the rate to make it Rs. 350/- per R.

3) Much was argued in respect of two sale instances, which are produced at Exhs. 29 and 31 by the claimant before the Reference Court. The sale instance at Exh. 29 was of the year 1989 and 6 R. portion was sold for the consideration of Rs. 20,000/-. The sale instance at Exh. 31 was of the year 1990 and 10 R. portion was sold for the consideration of Rs. 41,000/-. The evidence shows that the lands and the sale instances were

irrigated lands and there was facility of perennial irrigation. On the other hand, from the crops which were taken in the land of claimant, it can be said that there was no facility of irrigation. Further, for purchasing 6 R. portion, there is possibility of giving higher rate as this portion was adjacent to the land of purchaser.

4) The learned counsel for original claimant submitted that even if some deductions are done in view of the aforesaid factors, higher rate could have been given. In the first sale instance of 6 R., which could have been compared, the land was Bagayat and so, the same rate could not be given. There was further advantage that the purchaser was having adjacent land and so, he could have given any rate. In view of these circumstances, after considering the rate, which could have been given for Jirayat land, deductions will have to be made and then market price could have been ascertained. These circumstances were considered by this Court (Other Hon'ble Judge) in **First Appeal No. 226/2003 dated 15.10.2015 [Chandrasen s/o. Shankarrao Munde and Anr. Vs. The State of Maharashtra]**. This Court in aforesaid judgment has considered the plus and the minus factors and held that the market price of Jirayat land can be Rs. 1,000/- per R. There is nothing to show that this decision was challenged. In view of

these circumstances and aforesaid circumstances mentioned in the sale instances, this Court holds that the rate of Rs. 1,000/- per R. can also be given in the matter filed by the original claimant.

5) The learned AGP for the State argued in the appeal of the State that when the possession was taken prior to the date of notification under section 4 of the Act and when there is no provision of giving of interest in respect of the period starting from the date of possession till the date of notification, the Reference Court has given the interest from the date of possession i.e. 27.8.1989 to 26.8.1990 and then again from 27.8.1990 interest at the rate of 15% p.a. is given till the date of realisation. Such interest could not have been given and the interest can be given only from the date of notification under section 4 of the Act. So, the following order is made.

ORDER

(I) Both the appeals are allowed.

(II) The appeal of the State is allowed for setting aside the judgment and award of Reference Court due to which the State was made to pay interest from the date of possession till the date of notification published under section 4 of the Land Acquisition Act. So, no interest will be payable for the period

starting from 27.8.1989 to 9.1.1994. Interest will be payable at the rate given by the Reference Court after this date. 12% component will be available as given by the Reference Court and interest at the rate of 15% will be available from the date of the award till the date of realisation of the amount. Award is to be prepared accordingly.

(III) In the appeal of the original claimant the rate of Rs. 1000/- (Rupees one thousand) per R. is given. The Statutory benefits will be as per the order made in the appeal of the State.

[T.V. NALAWADE, J.]

ssc/