

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1576 OF 2008

- 1) Vishnu Dashrath Lavande
Age:Major, occ. Business.
- 2) Ramnath Vishnu Lavande,
Age: Minor, occ. Nil.
- 3) Yamaji Vishnu Lavande,
Age: Minor,

Both appellant Nos. 2 & 3
U/g Kadubai Vishnu Lavande,
Age:Major, occu.Household.

All R/o Somthane, Tq.Pathardi,
District Ahmednagar. = **APPELLANT**
(orig. Plaintiffs)

VERSUS

The State of Maharashtra = **RESPONDENT**

Mr. NK Kakade, Advocate for Appellants;
Mr. AM Phule, AGP for Respondent

CORAM : P.R.BORA, J.

DATE : 5th October,2016.

ORAL JUDGMENT:

- 1) Heard learned Counsel for the parties.

2) The present appeal is filed against the Judgment and order passed by 2nd Jt. Civil Judge, Senior Division, Ahmednagar in LAR No.214/1989.

3) Land of the present appellants was acquired for percolation tank and the Special Land Acquisition Officer, (for short, S.L.A.O.) had offered compensation for the said land @ Rs.7,767=50 ps. per hectare. Dissatisfied with the amount of compensation so offered, the appellants had filed an application under Section 18 of the Land Acquisition Act, 1894 (for short, the Act), which was adjudicated by the District Court at Ahmednagar (for short, the Reference Court).

. Before the Reference Court, the appellants had claimed the market value of the acquired land @ Rs.1,00,000/- per hectare. The appellant himself has deposed before the Reference Court and has also relied upon two sale instances to substantiate the claim so raised by him. Learned Reference Court, however, enhanced

the amount of compensation by determining the market value of the acquired land @ Rs.37,500/- per hectare. Aggrieved by, the appellants have presented the appeal seeking enhancement in the amount of compensation so awarded by the Reference Court.

4) Shri Kakade, learned Counsel appearing for the appellants, submitted that the impugned judgment was delivered by the Reference Court based on the judgment delivered by the said Court in LAR No.221/1989. The learned Counsel has placed on record an ordinary copy of the judgment delivered in LAR No.221/1989. The same is taken on record and marked as "X" for identification.

. The learned Counsel submitted that two sale instances were placed before the Reference Court and though the Reference Court has accepted that both were the comparable sale instances, did not award the compensation at par with the price received to the lands, which were the subject matter of the said sale instances. The learned

Counsel submitted that the compensation awarded by the Reference Court needs to be enhanced to that extent, i.e. Rs.50,000/- per hectare as was received to the land which was the subject matter of one of the sale instance, duly proved by the appellants.

5) Shri Phule, learned AGP appearing for the respondent has supported the impugned judgment. The learned AGP submitted that the sale instances which were relied upon by the appellant, were of the period after issuance of Section 4 notification. The learned AGP further submitted that it had also come on record in the cross-examination of the respective vendors that one of the lands was adjacent to the land of the purchaser and both the lands were near Gaothan and as such, some more price was received to the said lands. The learned AGP further submitted that in such circumstances, no fault can be found in the price determined by the Reference Court. The learned AGP, therefore, prayed for dismissal

of the appeal.

6) I have carefully perused the judgment of the Reference Court in LAR No.221/1989, on the basis of which, the impugned judgment has been delivered by the Reference Court. The Reference Court has elaborately discussed the evidence in regard to the sale instances placed on record by the applicants. One of the sale instances was of the date 30.11.1982 and the other was of the date 2nd April, 1983. Both the sale instances were admittedly of the period after issuance of Notification under Section 4 of the Act, by which the subject land was acquired.

. The discussion made by the Reference Court further reveals that one of the lands, sale deed of which was placed on record, was purchased by the adjacent land-holder. It is thus evident that some more price must have been paid in the said transaction. The Reference Court has further discussed that both the lands were near the Gaothan. This may also be a reason that the

said land must have received some more price.

7) After having considered plus and minus factors of the acquired lands, comparing to the lands which were the subject matter of sale instances and after having objectively assessed the said evidence, the Reference Court has determined the market value of the acquired land @ Rs.37,500/- per hectare.

8) After having gone through the discussion made by the Reference Court and the evidence brought on record, it does not appear to me that the Reference Court has committed any error in determining the market value of the acquired land. The appellants have failed in demonstrating that the Reference Court has not awarded just and fair amount of compensation. On the contrary, as has been stated above, the sale instances placed on record by the applicants were duly considered and the compensation was assessed on the basis of the said sale instances.

9) The appeal, being devoid of substance, stands dismissed. Pending civil application stands disposed of.

(P . R . BORA)
JUDGE

bdv/