

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) FA NO.1892 & 1891 of 2016

**5 FIRST APPEAL NO. 1892 OF 2016
WITH FA/1891/2016**

THE STATE OF MAHARASHTRA
VERSUS
BAPU LAXMAN KULKARNI AND ORS

...

AGP for Appellant : Mr. A.M.Phule
Mr.R.J.Nirmal, Adv., for respondent nos. 1 and 2.

...

CORAM : P.R. BORA, J.
Dated: October 14, 2016

...

PER COURT :-

1. In the present appeals, the Reference court has awarded compensation by determining the market value of the acquired lands at the rate of Rs.400/- per Are. The lands were acquired for the percolation tank at village Hatolan, taluka Ashti, district Beed. Section 4 notification was published on 24th September, 1992, whereas award under Section 11 came to be passed on 23rd December, 1995. The Special Land Acquisition Officer has fixed the market value of the acquired land at the rate of Rs.80/- to Rs.100/- per Are. The Reference Court has enhanced the said compensation by determining the market value at the rate of Rs.400/- per Are, as stated hereinabove. The impugned judgment and award is assailed by the appellants only on the ground that the Reference Court has relied upon the sale instances of the adjoining village.

AGP/-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(2) FA NO.1892 & 1891 of 2016

2. I have carefully perused the impugned judgment. Admittedly, no evidence was adduced on behalf of the State. Whatever evidence was available on record was placed on record by the claimants therein. Two sale instances were placed on record by the claimants; one at Exh.32 and another at Exh.33. The Reference Court in paragraph no.21 of the judgment has elaborately analyzed the evidence in the form of sale instances. The land which was the subject matter of the sale deed at Exh.32 was admeasuring 11 Are situated at village Parodi and it received consideration of Rs.11,000/- i.e. Rs.1,000/- per Are. The land which was subject matter of Exh.33 was admeasuring 14 Are and was sold for consideration of Rs.28,000/- on 6.9.1990. This land was also from village Parodi. It is true that no sale instance was placed on record by the claimants of village Hatolane where the acquired lands are situated. The learned Reference Court has, however, observed that the village Parodi and village Hatolane are adjacent to each other and, thereafter, recorded a finding that in absence of any other evidence on record and more particularly in absence of sale instances from village Hatolane, the reliance was placed on the sale instances from village Parodi. The lands which were the subject matter of the sale deeds at Exh.32 and Exh.33 were irrigated lands

AGP/-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(3) FA NO.1892 & 1891 of 2016

whereas the acquired lands were not irrigated lands. Considering the fact that the lands which were subject matter of the sale instances placed on record had yielded the price ranging between Rs.1,000/- per Are to Rs.2,000/- per Are for irrigated lands and considering the plus and minus factors, the Reference Court determined the market value of the acquired land at the rate of Rs.400/- per R.

3. After having gone through the material placed 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 at the aforesaid rate and accordingly enhancing the compensation. The First Appeals filed are devoid of substance and deserve to be dismissed and are accordingly dismissed, however, without any order as to costs.

(P.R. BORA, J.)

...