

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.567 OF 2002

The State of Maharashtra
Through Collector,
Osmanabad.

= **APPELLANT**
(orig. Respondent)

VERSUS

Sayed Ishaqu s/o Sayed Raza
Age: 54 Yrs., occu. Agril.
R/o Chiwari-Omerga,
Tq.Tuljapur, Dist. Osmanabad.

= **RESPONDENT**
(orig. Claimant)

Mr.S.P.Deshmukh, Advocate for Appellant

CORAM : P.R.BORA, J.

DATE : 15th September, 2016.

ORAL JUDGMENT:

1) Heard. The present appeal is filed by the State against the Judgment and Award passed in LAR No.453/1991 on 27th April, 1994 by Civil Judge, Senior Division, at Osmanabad. The aforesaid Reference application was filed by the present respondent seeking enhancement in the amount of compensation as awarded by the Special Land Acquisition Officer.

2) The land to the extent of 27 Ares, owned and possessed by the present respondent, was acquired for the purpose of minor irrigation tank at Chiwari, Tq. Tuljapur, District Osmanabad. Section 4 notification of the Land Acquisition Act, 1894 (for short, the Act) was published on 13th January, 1984; whereas the Award under Section 11 of the Act came to be passed on 31st March, 1986. The Special Land Acquisition Officer had determined the compensation @ Rs.6,000/- per hectare.

. Being dissatisfied with the compensation so offered by the Special Land Acquisition Officer, the Reference application was filed and the Reference Court enhanced the amount of compensation by determining the market value of the acquired land @ Rs. 15,000/- per acre. Aggrieved thereby, the State has filed the present appeal.

3) Learned AGP submitted that the Reference Court has unreasonably enhanced the amount of compensation. The learned AGP further submitted that the claimant had claimed the compensation @ Rs. 12,000/- whereas the Reference Court has awarded the same @ Rs. 15,000/- per acre. The learned AGP submitted that no cogent and sufficient evidence was placed on record by the claimant for determining the market value of the acquired land. The learned AGP further submitted that the sale instance at Exh.16, which was relied upon by the claimant was pertaining to a small piece of land admeasuring 3 Ares and as such, the same could not have been held as comparable sale instance by the learned Reference Court. The learned AGP, therefore, prayed for setting aside the impugned Judgment and Award and to re-determine the amount of compensation at the

rate which was officered by the Special Land Acquisition Officer.

4) None has appeared for the respondent, i.e. original claimant.

5) I have carefully perused the impugned judgment and oral as well as documentary evidence brought on record. Admittedly, no evidence was adduced by the State. There is further no dispute that the only sale instance, which was placed on record and relied upon by the claimant was the sale instance at Exh.16. In the said transaction, the land admeasuring 3 Ares was sold vide registered sale deed executed on 1st July 1970 for the consideration of Rs.500/-, i.e. @ Rs. 166/- per Are. On perusal of the impugned judgment, it is revealed that the Reference Court has considered the aspect of price

escalation and has accordingly determined the market value of the acquired land. From the evidence brought on record by the claimant, it is quite evident that the land from the same village was sold in the year 1970 @ Rs.166/- per Are. Considering the fact that Section 4 notification was issued on 12th January, 1984, the Reference Court has rightly determined the market value of the acquired land at the rate of Rs.375/- per Are, i.e. Rs.15,000/- per acre as on 12th January, 1984 taking into account the price escalation.

6) After having considered the entire material on record, it does not appear that the Reference Court has committed any error in determining the market value of the acquired land. Having regard to the evidence on record, it is difficult to accept the contention raised by learned AGP that the

amount of compensation was determined by the Reference Court arbitrarily and on higher side without any evidence therefor. It appears to me that the Reference Court has rightly determined the market value of the acquired land and has accordingly enhanced the amount of compensation.

7) For the reasons stated above, I do not see any reason to cause any interference in the impugned Judgment and Award. In the result, the following order, -

ORDER

. The appeal is dismissed without any order as to costs. Pending Civil Application, if any, stands disposed of.

(P . R . BORA)
JUDGE

bdv/