

KIN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

8 FIRST APPEAL NO.457 OF 2016

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
LAXMAN DASHRATH KOLAPE

WITH

FIRST APPEAL NOS.458/2016 & 459/2016

Advocate for Appellants :Mr. SN Morampalle, AGP
Mr. LS Shaikh, Adv. h/for Mr. D R Jayabhar For
R/sole.

CORAM : P.R.BORA, J.

DATE : 29th August,2016.

PER COURT :

. First Appeal Nos.458/2016 and 459/2016
were not on Board. Taken on Board.

1) Heard. **Admit.** By consent, taken up for
final disposal.

. Since the present three appeals are
arising out of the common Judgment and Award
passed by the Reference Court, common arguments
were heard and I deem it appropriate to decide
the said appeals by a common reasoning.

2) The subject lands were acquired for construction of percolation tank of Bhend(khurd). A notification under Section 4 of the Land Acquisition Act, 1894 (for short, the Act) was published on 17th January, 2002. The actual possession of the lands was taken by the acquiring body on 21st August, 1995. An Award under Section 11 of the Act was passed on 31st December, 2002.

. The Special Land Acquisition Officer had offered the compensation @ Rs.560/- per Are. Dissatisfied with the amount of compensation so offered, the land-holders filed the Reference Applications under Section 18 of the Act.

. The Reference Applications were forwarded by the District Collector, Beed to the Civil Court at Beed. The learned District Judge-1, Beed, after having assessed the oral as well as documentary evidence brought before him, determined the market value of the land @ Rs.1155/- per Are and accordingly enhanced the amount of compensation in all the three matters.

Aggrieved by, the State has filed the present appeals.

3) Shri Morampalle, learned AGP appearing for the State, submitted that the Reference Court has failed in proper appreciation of the evidence on record and has determined the market value of the subject lands on a higher side, though there was no cogent and sufficient evidence therefor.

. The learned AGP further submitted that the sale instances, which were brought on record by the claimants, were not of the comparable lands and as such, the Reference Court could not have relied upon the said sale instances so as to determine the market value of the subject lands. The learned AGP further submitted that the Special Land Acquisition Officer had accurately determined the market value of the subject lands and had accordingly offered the compensation and there was no interference required in the amount of compensation offered by the Special Land Acquisition Officer. The learned AGP, therefore,

prayed for allowing the appeals by the State thereby quashing and setting aside the order passed by the Reference Court and to confirm the amount of compensation in terms of the Award passed by the Special Land Acquisition Officer.

4) Shri Jaybhar, learned Counsel appearing for the original claimants in all these matters, has supported the impugned judgment. The learned Counsel submitted that the Reference Court has considered the sale instances brought on record by the claimants and accordingly has determined the amount of compensation. The learned Counsel further submitted that in fact the Reference Court was supposed to grant some higher amount by way of compensation in view of the evidence placed on record, however, the Reference Court has enhanced the amount of compensation by determining the market value of the subject lands @ Rs.1155/- per Are. The learned Counsel has, therefore, prayed for dismissal of the appeals.

5) I have carefully considered the submissions made on behalf of the learned AGP and learned Counsel appearing for the original claimants. I have perused the impugned Judgment and Award. Perusal of the impugned Judgment and Award reveals that the Reference Court has taken into account the sale instances brought on record by the claimants. It is further revealed that the Reference Court has properly discussed the evidence in that regard and it is quite clear from the discussion so made that the Reference Court has not blindly relied upon the sale instances placed on record by the claimants, but has made an objective assessment and considering the overall evidence on record, has determined the market value of the subject lands.

6) The material on record reveals that the claimants had placed on record total four sale-instances claiming that the same were the comparable sale-instances and have accordingly prayed for determination of the market value on

the basis of the said sale-instance. On perusal of the impugned judgment, it is noticed that the learned Reference Court has declined to rely upon the said sale-deeds by assigning adequate reasons independently in respect of every such sale-deed. The learned Reference Court has determined the market value of the acquired lands on the basis of the judgment delivered by the learned District Judge, Beed in LAR No.33/2006 along with LARs Nos.30/2006, 31/2006 and 32/2006. The said common judgment was delivered on 25th April, 2007. In the said matters, the lands out of Gut Nos.175 and 162 were acquired for the percolation tank. The lands, which are the subject matter of the present appeals, were acquired for the same purpose and by the same notification. In the said matters, the learned District Judge, Beed had determined the market value of the land @ Rs.1,540/- per Are for seasonal irrigated land and Rs.1155/- per Are for dry land.

7) After having considered that the lands,

which were the subject matter of the decided Reference applications, were the neighbouring lands of the lands which are involved in the present matters, the learned Reference Court find if appropriate to determine the market value of the acquired lands at par with the market value, as was fixed by the learned District Judge, Beed in the judgment delivered by him in LAR No.33/2006 with connected References. It appears to me that the learned Reference Court has taken utmost care while determining the market value of the acquired lands and has accordingly assessed the amount of compensation payable to the respective claimants.

8) Admittedly, no evidence was adduced on behalf of the appellant, i.e. original respondent. In the circumstances, the contention of learned AGP that the Reference Court did not consider the discussion made by the Special Land Acquisition Officer in the impugned Award, is liable to be rejected. If at all it is the

contention of the appellant that the sale instances which were considered by the Special Land Acquisition Officer were more appropriate than the sale instances as were submitted by the original claimants, the State ought to have placed on record the certified copies of those sale-deeds and it was also open for the appellant/State to examine the necessary witnesses in that regard. As noted earlier, the appellants have not adduced any evidence and have also not placed on record any document.

9) After having considered the entire material on record, it does not appear to me that the learned Reference Court has committed any error in determining the market value of the subject lands @ Rs.1155/- per Are and accordingly in enhancing the amount of compensation. The appeals filed by the State are devoid of any substance and deserve to be dismissed.

10) In the result, the following order, -

ORDER

i) All the aforesaid appeals are dismissed.

ii) No order as to costs.

iii) Pending Civil Applications, if any, stand disposed of.

(P.R.BORA)
JUDGE

bdv/