

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1500 OF 2008

RAMDAS BAJIRAO ZAREKAR
(SINCE DECEASED THROUGH HIS L.RS.)
JYOTIRAO RAMDAS ZAREKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Appellant : Mr. P M Gaikwad
AGP for Respondents: Mr. K. D. Mundhe
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CORAM : V. K. JADHAV, J.
DATED : 30th MARCH, 2016

PER COURT

1. The appellant original claimant was the owner of land admeasuring 5 Hectare and 15 Are situated at village Hatadi, Tq. Partur, District Jalna and the said land came to be acquired by the respondent authorities for Yenora irrigation project, Hatadi. The respondent authorities has passed final award on 31.7.1993. The Land Acquisition Officer assessed and calculated the compensation amount of the acquired land at a very low level i.e. at the rate of Rs.202/- per Are. and as such, awarded the total amount of compensation to the tune of Rs.1,14,897/- for the land admeasuring 5 hectare and 15 R. Being aggrieved by the same, the appellant original claimant filed Reference bearing No. 47 of 1994, claiming therein Rs.75,000/- per Hectare as per the market rate for the acquired land. The learned Reference court by detailed judgment and award dated 1.1.2008 in L.A.R. No. 47 of 1994 enhanced the compensation by adding Rs.51/- per Are. Aggrieved by

the same, the original claimant has preferred this first appeal.

2. Learned counsel for the appellant submits that the entire land has a good quality and high potentiality. The Reference Court ought to have assessed the compensation at the rate of Rs.30,000/- per acre corresponds to Rs.75,000/- per hectare. Learned counsel submits that this court has disposed of first appeal No. 1578 of 2008 which arises out of the same project. Learned counsel submits that this court by order dated 20.11.2013 has awarded compensation at the rate of Rs.500/- per Are considering the land to be Jirayat land. Learned counsel submits that in first appeal No. 1256 of 2008 this court has also dealt with the rate awarded by the Reference court from the same award in respect of Bagayat land and accordingly this court by order dated 19.11.2013 in first appeal No. 1256 of 2008 awarded Rs.1000/- per Are for Bagayat land. Learned counsel submits that in view of rate awarded to Bagayat land, this Court while disposing of first appeal No. 1578 of 2008 awarded compensation at the rate of Rs.500/- per Are for Jirayat land. Learned counsel submits that in view of the judgment rendered in first appeal No. 1578 of 2008 dated 20.11.2013, the appellants in the present appeal are also entitled for the same rate of Rs.500/- per Are for Jirayat land acquired for the same project.

3. I have also heard learned A.G.P. for the respondent-State

4. Even after appeal is admitted, none appears for the respondent

No.3 acquiring body.

5. I have gone through the judgment in first appeal No. 1256 of 2008 and also the judgment in first appeal No. 1578 of 2008 delivered by this Court. This Court while disposing of first appeal No. 1256 of 2008 has referred the sale deed Exh.21 dated 2.12.1988 wherein 15 Ares land was sold for Rs.15,000/- and the land under the sale deed is situated at village Yenora. In the case in hand, the appellants-original claimants have also relied on the sale deed dated 2.12.1988 from Gat No. 40 of village Yenora. The appellants-claimants have examined witness Bhanudas who had purchased 15 R of land for Rs.15,000/- and as per his evidence, the distance between the land purchased by him and claimant's land is about 2 kilometers.

6. This Court while disposing of the said first appeal No. 1256 of 2008 considered the notification under section 4 of the Land Acquisition Act, dated 11.11.1991. In the case in hand, the date of notification is dated 31.1.1991. In first appeal No. 1578 of 2008, this Court has considered the compensation awarded to the bagayat land at the rate of Rs.1000/- per Are and in first appeal No. 1256 of 2008, considering the land to be Jirayat, has awarded compensation at the rate of Rs.500/- per Are. In the case in hand, the date of notification is earlier to date of notification considered in first appeal No. 1578 of 2008. In view of this, I proceed to pass the following order:-

ORDER

- I. The First appeal is hereby partly allowed.
- II. The judgment and award dated 1.1.2008 passed by the Adhoc district Judge-1 Jalna in L.A.R. No. 47 of 1994 is modified and it is held that the appellants claimants are entitled for compensation at the rate of Rs.500/- per R and the respondents shall pay amount of compensation to the appellants-claimants for the acquired land at the rate of Rs.500/- per Are.
- III. Rest of the judgment and award passed by the learned Adhoc District Judge-1, Jalna dated 1.1.2008 in L.A.R. No. 47 of 1994 from clause Nos. iii to vii stands confirmed and maintained.
- IV. Award be drawn up accordingly.
- V. First appeal is disposed of.

(V. K. JADHAV, J.)

rlj/