

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

911 FIRST APPEAL STAMP NO. 10790 OF 2015

THE SPECIAL LAND ACQUISITION OFFICER, UPPER TAPI
PROJECT 3 JALGAON AND ANOTHER
VERSUS
BHAUSAHEB TATYASAHEB NIKAM

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AGP for Applicant / State : Mr.R.B.Bagul.

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CORAM : P.R. BORA, J.
Dated: April 22, 2016

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PER COURT :-

1) Being aggrieved by the Judgment and Award passed by the Jt. Civil Judge, Senior Division, Jalgaon on 06.08.2007 in Land Acquisition Reference No.339/1994, the respondents therein have preferred the present appeal.

2) The land admeasuring 18 R and *potkharab* 3 R owned by the present respondent was acquired. Notification under section 4 of the Land Acquisition Act (hereinafter referred to as 'the Act') was issued on 24.04.1986. Award under section 11 was passed on 06.04.1988. Since respondent i.e. Original claimant was not satisfied with the amount of compensation determined by the S.L.A.O., he filed a reference under section 18 of the Act, seeking enhancement of the amount of compensation.

3) The learned reference Court, after having considered the evidence on record, determined the market value of the acquired land at the rate of Rs.26,000/- per Hectare and enhanced the amount of compensation to that extent. The reference Court did not award any enhanced compensation in so far as *potkharb* land is concerned. Being aggrieved by the said Judgment and Award, the State and the acquiring body have jointly preferred the present Appeal.

4) Mr.R.B.Bagul, the learned AGP submitted that, though the reference Court has recorded that, the sale instances placed on record by the claimants are not dependable, enhanced the amount of compensation without there being any evidence on record from the side of the claimant. Learned AGP submitted that, the amount of compensation determined by the S.L.A.O. was just and fair and no enhancement was required in the amount so awarded.

5) It is true that, at one place in its Judgment, the reference Court has made a categorical observation that, the claimant has failed in bringing on record any evidence to

show that the market value determined by the S.L.A.O. is unjust or unfair. However, if the Judgment is read as a whole, it reveals that, the reference Court has taken into account some of the sale instances relied upon by the claimant for determining the amount of compensation. The reference Court has also observed that, the respondent State has also failed in bringing on record any concrete evidence so as to determine the market value of the land under acquisition. Ultimately, from the available material on record, the reference Court has determined the value at the rate of Rs.26,000/- per Hectare. It is evident that, the reasons stated by the reference Court while determining the market value of land under acquisition at the rate of Rs. 26,000/- per Hectare are not that sound. However, I am not inclined to cause any interference in the impugned Judgment and Award for the reason that, the acquisition is of the year 1986, thus 30 years have already passed. Secondly, the land under acquisition was a small piece of land admeasuring 18 R, thus the total compensation including solatium and interest etc. comes to few thousands. Thirdly, the compensation awarded cannot be said to be too excessive. Hence, the following order:

ORDER

- a) The appeal is dismissed.
- b) No order as to costs.
- c) Pending Civil Application stands disposed of.

(P.R. BORA, J.)

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