

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 127 OF 2008
WITH CA/6919/2010 IN FA/127/2008

STATE OF MAHARASHTRA
VERSUS
EKNATH MARUTI SHELKE DECEASED THROUGH LRS
HARISHCHANDRA EKANTH SHELKE AND OTHERS

...
AGP for Appellant : Mr. S.B. Yawalkar
Advocate for Respondents : Mr. D.R. Jayabhar
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CORAM : V. K. JADHAV, J.
DATED : 30th MAY, 2016

PER COURT:-

1. Being aggrieved by the judgment and award dated 31.8.2000 passed by the learned C.J.S.D. Ahmednagar in L.A.R. No. 49 of 1997, the State-original respondent has preferred this appeal.

2. Brief facts giving rise to the present appeal are as follows:-

In view of notification under section 4 of Land Acquisition Act, published on 24.3.1994, the land belonging to the respondent-claimant was acquired for construction of Kukadi left canal at village Tandli-Dumal, Tq. Shrigonda, District Ahmednagar. The Special Land Acquisition Officer passed an award on 29.3.1996 and paid the compensation to the claimant. Being aggrieved by the same, the respondent-original claimant had filed Reference before the

Reference Court for enhancement of compensation. The learned Civil Judge, Senior Division, Ahmednagar by its impugned judgment and award dated 31.8.2000 has enhanced the compensation. Hence, this appeal.

3. The learned counsel for the respondents-original claimants submits that L.A.R. No. 49 of 1997 was heard and decided alongwith L.A.R. No. 54 of 1997. This Court by order dated 6.9.2007 passed in Civil application No. 9247 of 2003 in first appeal (st.) No. 2483 of 2003 rejected the civil application and refused to register the appeal preferred by the State against the judgment and award passed by the Reference Court i.e. C.J.S.D. Ahmednagar in L.A.R. No. 54 of 1997. This Court has not only rejected the civil application for condonation of delay but also considered the merits of appeal preferred by the State against the judgment and award passed in L.A.R. No. 54 of 1997.

4. Learned A.G.P. for the appellate-State has not disputed this position.

5. On perusal of impugned judgment and award passed in L.A.R. No. 49 of 1997, it appears that the said Reference has been heard and decided alongwith L.A.R. No. 54 of 1997 (main). It is observed

in the impugned judgment and award by the Reference Court that while deciding L.A.R. No. 54 of 1997 (main) the Reference Court has already held that the prevailing market value of Jirayat and Bagayat lands were Rs.50,000/- and Rs.1,00,000/- per hectare, respectively.

6. This Court while deciding the civil application No. 9247 of 2003 in first appeal (St.) No. 2483 of 2003 challenging the judgment and award passed by the Reference court in L.A.R. No. 54 of 1997 has observed that the market price awarded to the claimants at the rate of Rs.50,000/- per hectare cannot be said to be exorbitant.

7. In view of the above discussion, I find no merits in the present appeal. Thus, the present first appeal is liable to be dismissed with costs. The first appeal therefore, is dismissed with costs.

8. Pending civil application is also disposed of.

(V. K. JADHAV, J.)

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