

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

First Appeal No. 1748 of 2004

* The State of Maharashtra
Through the Collector, Beed. .. **Appellant.**

Versus

- 1) Rangnath s/o Vithoba Pokhale,
Age Major, Occupation : Agriculture,
R/o Belgaon, Taluka Ashti,
District Beed.
- 2) Jagannath s/o Vithoba Pokhale
Age Major,
Occupation & R/o As above. .. **Respondents.**

Shri. K.N. Lokhande, Assistant Government Pleader, for
the appellant.

Shri. A.P. Awhad, Advocate, holding for Smt. Asha Rakh,
Advocate, for respondent Nos.1 and 2.

CORAM: T.V. NALAWADE, J.

DATE : 13th JANUARY 2016

JUDGMENT:

1) The appeal is filed to challenge the judgment and award of Land Acquisition Reference No.489 of 1994 which was pending in the Court of the Additional District Judge, Beed, the Reference Court. As the compensation awarded by the Special Land Acquisition Officer in

acquisition proceeding is enhanced by the Reference Court, the decision is challenged by the State. Heard learned Assistant Government Pleader.

2) Agricultural land of the original claimants bearing Gat No.51/4 admeasuring 1.64 hectares situated at village Belgaon, Tahsil Ashti, District Beed, is acquired by the Government for percolation tank of Belgaon. The notification under section 4 of the Land Acquisition Act 1894 was published on 28-12-1989. The Special Land Acquisition Officer fixed market rate at Rs.100/- per R but it was not in respect of complete portion acquired. So, the Land Acquisition Reference was filed by the owners. They contended that market price was much higher and they are entitled to get rate of Rs.1000/- per R. They also claimed compensation in respect of the area which was not mentioned in the award. The proceeding was opposed by the State.

3) Before the Reference Court the claimants gave evidence and they placed reliance on sale instance of 30-1-1991. By examining the vendor of the land the copy of

sale deed was proved. One T.I.L.R. was examined to prove that area of 1.61 hectare was acquired. There is no dispute about the area now and the Government has challenged only the rate of compensation given by the Reference Court.

4) The evidence of sale instance shows that the agricultural land had the facility of irrigation, as share of 2 Anna water in the well situated in other land was also sold with the pipeline. The rate was Rs.750/- per R and the portion of 20 gunthas was sold under the sale deed. The Reference Court has held that it is a comparable sale instance though the transaction took place subsequent to the date of publication of notification under section 4 of the Land Acquisition Act.

5) This Court has carefully gone through the award prepared by the Land Acquisition Officer. It was prepared for 64 R portion and it was held that it is jirayat land. The 7/12 extract of the land acquired is produced and it also shows that there was well in this land. Crops like bajra, groundnut, tur, jowari, gram and wheat were taken in the land. The report prepared by the Land

Acquisition Officer shows that some sale instances were shown to the Land Acquisition Officer but he refused to accept those sale instances and he held that they were situated at long distance from the acquired land. Then he considered the rate fixed in the acquisition proceedings in the year 1981 of similar land which was Rs.75 per R. As the notification was issued in the year 1989 he gave increase of Rs.20/- and he presumed that the market price was Rs.100/- per R. This method adopted by the Land Acquisition Officer was not correct.

6) No evidence in rebuttal was given by the State before the Reference Court. The Reference Court has deducted 50% amount from the price shown in the aforesaid sale instance and has held that market price of acquired land was Rs.375/- per R. In view of the aforesaid circumstances this Court holds that the Reference Court has not committed any error in giving such rate.

7) In the result, the appeal stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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