

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

FIRST APPEAL NO. 147 OF 2004

THE STATE OF MAHARASHTRA

VERSUS

LAXMAN NANA NIRFAL
age 50 years, Occ. Agri,
R/o Limbejalgaon, Tq. Gangapur,
District. Aurangabad.

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Advocate for Appellant : Mr K D Mundhe
Advocate for Respondent : Mr C K Sonawane
And N.R.Thorat

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CORAM : V.K. JADHAV, J.

Dated: April 26, 2016

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ORAL JUDGMENT :-

1. The Government has acquired agricultural land of the claimant for 'Tembhapuri Medium Project' to be constructed at village Lilmbejalgaon and, for that purpose the Government had issued notification u/s 4 of the Land Acquisition Act on 12.04.1984. The Special Land Acquisition Officer, after carrying out inquiry and after collecting the evidence fixed the market price of the land by preparing final Award and accordingly awarded compensation @ Rs.140/- per R. Being dissatisfied with

the same, the claimants have filed Reference. The learned 4th Jt. Civil Judge S.D., Aurangabad, by its impugned order dated 5.12.1996 in LAR No.374/1996 awarded compensation @ Rs.150/- per R in addition to the compensation awarded by the SLAO @ Rs.140/- per R. Being aggrieved by the said Judgment and Award, the State Government has preferred this appeal.

2. The learned AGP submits that, the SLAO after following due procedure and considering all the aspects i.e. fertility, potential and quality of the land under acquisition, awarded just and reasonable compensation. The learned AGP submits that, the Reference Court has committed an error in awarding the enhanced compensation at excessive and exorbitant rate. The learned AGP submits that, the Reference Court has considered two sale instances but those sale instances are from the different villages and not reflecting the correct marked price of the acquired land.

3. The learned counsel for respondent/original claimant submits that, the Reference Court, after

considering the entire evidence on record awarded just and reasonable compensation in this case. Learned counsel submits that, even this Court in Civil Application No.1727 of 2004 in FA Stamp No.1850/2001 has confirmed the order of Reference Court granting compensation in respect of the same project by fixing three market rates i.e. 294/- per R for dry land, Rs.441/- per R for irrigated land and Rs.588/- per R for perennially irrigated lands respectively. This Court, accordingly dismissed said first appeal preferred by the State.

4. Learned counsel submits that in the case in hand, Reference Court has granted enhanced compensation @ Rs.290/- per R only.

5. On careful perusal of the impugned Judgment and Award, it appears that, the Reference Court, after considering the entire evidence on record, rightly granted compensation @ Rs.291/- per R for Dry land owned and possessed by the respondent/original claimant. Furthermore, this Court in CA No.1727/2004

in FAST No.1850/2001 considered the first appeals arises out of the Reference decided by the Court below in respect of the same project and accordingly, confirmed the order passed by the Reference Court and dismissed the appeal preferred by the State. In the case in hand, the Reference Court has granted compensation @ Rs.290/- per R which is less than the rate awarded by this Court in the said appeal.

6. In view of this, I do not find any substance in the appeal. Appeal is therefore liable to be dismissed. Hence, order.

ORDER

1. First Appeal is hereby dismissed.
2. In the circumstances, there shall be no order as to costs.

(V.K. JADHAV, J.)

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aaa/-