

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

First Appeal No. 995 of 2006

The State of Maharashtra.

.. Appellant.

Versus

Ratiram Nathu Gavhal,
Age 45 years,
Occupation : Agriculture,
R/o Khiroda Pragane,
Taluka Raver, Dist. Jalgaon.

.. Respondent.

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

Shri. D.B. Shinde, Advocate, for the respondent.

CORAM: T.V. NALAWADE, J.

DATE : 7th JANUARY 2016

JUDGMENT:

1) The appeal is filed by the State to challenge the judgment and award of Land Acquisition Reference No.1700 of 1998 which was pending in District Court Jalgaon. Both the sides are heard.

2) For irrigation project, the lands from villages Abhora, Khiroda and Pragane were acquired by the Government. In the present matter land admeasuring 5 R was acquired. The Special Land Acquisition Officer fixed the price as Rs.510/- per R for dry land. It is the case of the owner that the value of the dry land in that area at the relevant time was more than Rs.1.5 lakh per hectare i.e. more than Rs.1500/- per R. The proceeding was opposed by the State and the acquiring body.

3) Before the Reference Court evidence was given on sale instances of 40R portion and the sale deed was of 26-5-1993. The notification under section 4 of the Land Acquisition Act was published on 30-12-1993 and so the sale instance was more than 9 months old. 40 R portion from village Khiroda was sold for consideration of Rs.51,000/- i.e. at the rate of Rs.1,27,500/- per hectare. The present land is from village Khiroda. As there was nothing in rebuttal, the Reference Court held that the aforesaid sale instance is a genuine sale instance and can be used for ascertaining the market price. The only circumstance which is held against the owner is that he

did not examine the vendor though the certified copy of sale deed was produced. Due to this circumstance the Reference Court held that it can be presumed that value was Rs.1,00,000/- per hectare i.e. Rs.1,000/- per R. On that basis the compensation is given by the Reference Court and other statutory benefits are given. As there is nothing in rebuttal and the sale deed was given exhibit, this Court holds that it is not possible to interfere in the decision given by the Reference Court.

4) In the result, the appeal stands dismissed.

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

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