

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.995 of 2016

1. The State of Maharashtra,
through: The Collector, Beed
 - 2 The Executive Engineer,
Minor Irrigation (L.S.) division, Beed
- Appellants

Versus

- 1 Laximan s/o Ramkisan Choure
age: 40 years, occu: Agri
R/o Ukhada-Chakla, Tq.Shirur Kasar
Dist. Beed
 - 2 Ramesh S/o Asruba Khedkar
Age: 35 yers, occu: & R/o As above
- Respondents

WITH

FIRST APPEAL NO.993 OF 2016

- 1 The State of Maharashtra,
through: The Collector, Beed
 - 2 The Executive Engineer,
Minor Irrigation (L.S.) division, Beed
- Appellants

Versus

- 1 Bhaurao S/o Namdeo Selke,
Age: 50 years, Occu: Agri.,
R/o Munguswada, Tq. Pathardi,
Dist. Ahmednagar.

2 Ramnath S/o Bhaurao Selke
age: 35 years, occu: & R/o As above.

3 Arjun S/o Bhaurao Selke
age: 32 years, occu. & R/o As above

4 Eknath S/o Bhaurao Selke
Age: 30 years, Occu. & R/o as above.

Respondents

WITH

FIRST APPEAL NO.994 OF 2016

1 The State of Maharashtra,
through: The Collector, Beed

2 The Executive Engineer,
Minor Irrigation (L.S.) division, Beed

Appellants

Versus

Paraji S/o Bhivsen Selke
age: 45 years, occu: agri.,
R/o Ukhanda-Chakla, Tq. Shirur Kasar,
Dist. Beed

Respondents

WITH

FIRST APPEAL NO.996 OF 2016

1 The State of Maharashtra,
through: The Collector, Beed

2 The Executive Engineer,
Minor Irrigation (L.S.) division, Beed

Appellants

Versus

Vishnu S/o Ramdas Nemane

Age: 22 years, occu: Agri.,
R/o Ukhanda-Chakla, Tq. Shirur Kasar
Dist. Beed

Respondents

Mr.G.O. Wattamwar, Assistant Government Pleader for the appellants
Mr.R.T. Deshmukh advocate for the respondents

CORAM : **P.R. BORA, J**

(Date : 19th September, 2016.)

ORAL JUDGMENT

1 Since all these appeals are arising out of a common Judgment & Award passed by the Third Adhoc District Judge, Beed on 13.4.2006 in Land Acquisition Reference (LAR) No.164/2006 with the connected LARs, common arguments were heard in all these matters and I deem it appropriate to decide all these appeal, by a common reasoning. First Appeals Nos.993 of 2016, 994 of 2016 and 996 of 2016 were not on Board. They are taken on Board with the consent of the parties.

2 The lands, which are subject matter of the present appeals were acquired for construction of minor irrigation tank at Ukhanda Chakla, Tq. Shirur, Dist. Beed. The Notification under section 4 of the Land Acquisition Act (herein after referred to as 'The Act') was published in the official gazette on 27.2.1998. Possession of the acquired lands was taken on 29.2.1996 i.e. prior to issuance of

notification under section 4. Award under section 11 of the Act came to be passed on 29.2.2000. The Special Land Acquisition Officer (SLAO for short) fixed the market value of the acquired land at Rs.235/- per R and accordingly, offered the amount of compensation to the respective claimants.

3 Dis-satisfied with the amount so offered by the SLAO, the claimants preferred applications to the Collector Beed, invoking section 18 of the Act, seeking enhancement in the amount of compensation. All these applications were forwarded by the Collector to the Civil Judge at Beed for adjudication. The claimants had claimed averagely Rs.50,000/- per acre for their acquired lands.

4 In the proceedings before the Reference Court, the claimants adduced common evidence which was recorded in LAR No.164/2006. All the Reference Applications were clubbed by the Reference Court and were commonly adjudicated.

5 It was the contention of the claimants before the Reference Court that, the acquired lands were adjoining to each other and the SLAO had awarded compensation to the respective claimants under a common Award No.50/96.

6 The State had resisted the claims so raised by the landholders on various grounds. According to the State, the claimants had claimed exorbitant amount. It was further contended that, the SLAO had assessed the amount of compensation, after having visited and inspected the acquired lands and after having considered the comparable sale instances in the locality, prevailing on the date of issuance of Notification under section 4 of the Act.

7 The claimant in LAR No.164/2006 viz. Ramnath deposed on behalf of all the claimants. The 7/12 extracts of the respective lands were filed on record. According to the claimants, the acquired lands were well irrigated and each of the claimants was taking cash crops like wheat, pulses, gram in the said land. It was also their contention that the claimants were taking crops like sugar cane, wheat also, in their respective lands. In order to substantiate their claims, the petitioners placed on record three stale instances respectively at Exh.10, 11 and 12. Neither oral evidence was adduced by the State Government, nor any sale-deed was placed on record.

8 The learned reference Court, after having assessed the oral and documentary evidence placed on record before him,

determined the market value of the acquired land at Rs.750/- per R and accordingly enhanced the amount of compensation. Aggrieved by the Award so passed, the State has preferred the present appeals.

9 Shri Wattamwar, learned AGP appearing for the State submitted that, the sale instances relying on which the Reference Court has determined the market value of the acquired lands were not comparable sale instances and could not have been relied upon, for determining the market value of the acquired lands by the Reference Court. Learned AGP submitted that, the sale deed at Exh.12, which is referred to and relied upon by the Reference Court was of a small piece of land admeasuring 21-R and was at the longer distance from the acquired lands and as such could not have been held as the basis for determining the market value of the acquired land. The learned AGP submitted that, the land which was the subject matter of the sale instance at Exh.12 was on the bank of the river and was also adjacent to the road and as such, was on a quite higher footing than the acquired lands which were situated at the interior. The learned AGP has, therefore, prayed for setting aside the impugned Judgment & Award and has further prayed for redetermination of the amount of compensation on the basis of evidence on record.

10 Mr. R.T. Deshmukh learned counsel appearing for the claimants, in all these appeals supported the impugned Judgment & Award and submitted that no interference is warranted in the impugned Judgment.

11 I have carefully considered the submissions made by the learned AGP appearing for the appellants State and the learned counsel appearing for the original claimants. I have also perused the impugned Judgment.

12 Perusal of the impugned Judgment reveals that, though three sale instances were placed on record by the claimants, in order to substantiate the claim so raised by them, the Reference Court has preferred not to rely upon the sale instances at Exh.10 as well as Exh.11 and has considered the sale instance Exh.12 for determining the market value of the acquired lands. In paragraph Nos.18 to 22, the Reference Court has analyzed the evidence in the form of sale instances. The discussion made by the Reference Court in these paragraphs demonstrates that, the Reference Court has declined to accept the sale instance at Exh.10 and 11 by giving elaborate reasonings there-for.

13 The sale deed at Exh.10 was pertaining to 17-R seasonal

irrigated land which was sold for consideration of RS.42,500/- by a registered sale deed executed on 5.5.1996 along with share in the well. The reference Court has not relied upon the aforesaid sale instance by stating a reason that the subject land was appearing to have been purchased for non-agriculture use and from other angle also, that was not a comparable sale instance, so as to fix the market value of the acquired land on its' basis. The land which was the subject matter of Exh.11 was admeasuring 6-R and was sold by registered sale deed executed on 30.6.1997 for the consideration of Rs.18,000/- i.e. at Rs.3,000/- per R. The Reference Court has not relied upon the said sale instance having regard to the fact that, the subject land of the said sale instance was also a small piece of land admesuring 6-R and as such was of no use for determining the market value of the acquired land.

14 The third sale instance which was brought on record by the claimants was at Exh.12. The land which was subject matter of the sale deed at Exh.12 was from the same village Ukhanda chakla. It was sold on a registered sale deed executed on 11.12.1995 for the value of Rs.40,000/- i.e. Rs.1,904/- per R. The Reference Court has observed that, having regard to the fact that, the land which was the subject matter of the sale instance at Exh. 12 was similar in quality of the acquired lands, the market value

of the acquired lands was liable to be determined on the basis of consideration received to the said land.

15 However, the Reference Court appears to have taken all further precaution while determining the the market value of the acquired lands and has not mechanically determined the market value on the basis of consideration received to the land which was subject matter of Exh.12. The reference Court has observed that, the lands acquired are pure Jirayat lands, whereas the land which was subject matter of sale instance at Exh.12 was on the bank of the river and was also having facility of approach road and in the circumstances, the Reference Curt by deducting the value received to the land covered under the sale instance at Exh. 12 by 60% has determined the market value of the acquired lands. As noted earlier, the land covered under the sale instance at Exh.12 was sold at Rs.1,904/- per R, whereas the Reference Court has determined the market value of the acquired land at Rs. 750 per R.

16 It is further noticed that though claimants had raised a plea and had canvassed before the Reference Court that, the acquired lands were irrigated lands and further that, they were taking cash crops in the said lands. The reference Court refused to accept the

said contention by referring to 7/12 extracts of the acquired lands and the crop statements reflected through the said extracts. The Reference Court has observed that, from the entries of the crops reflected in 7/12 extracts, it is evident that the lands were Jirayat lands.

17 I reiterate that, the State has not adduced any oral evidence, or has also not placed on record any other sale instance on the basis of which the Reference Court could have determined the market value of the acquired land. In the circumstances, the only option before the Reference Court was to determine the market value by doing a guess work, considering the value received to the lands covered under the sale instances placed on record by the claimants.

18 After having considered the material placed on record, it does not appear to me that, the Reference Court has committed any error in determining the market value of the acquired land at Rs.750/- per R and accordingly, in enhancing the amount of compensation. On the contrary, from the discussion made by the learned reference Court in the impugned Judgment, it is quite evident that, whatever evidence was placed before the said Court was objectively assessed by the said Court and on the basis of

such evidence and by guess work and also taking into account the negative factors, the reference Court has correctly fixed the market value of the acquired lands and has accordingly enhanced the amount of compensation. In the present appeals, nothing has been brought on record to show that the market value, as has been determined by the Reference Court is arbitrary or on higher side. In the circumstances, I do not see any reason to cause interference in the impugned Judgment & award. Appeals are devoid of any substance and deserve to be dismissed. The appeals are accordingly dismissed, however, without any order as to costs.

19 Pending Civil applications, if any, stands disposed of.

(P.R. BORA, J)