

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

FIRST APPEAL NO. 3937 OF 2016

1. The State of Maharashtra,
through the Collector,
Latur
2. The Special Land Acquisition Officer,
Purna Project, Latur
3. The Executive Engineer,
Minor Irrigation Division, Latur

**...APPELLANTS
(Ori. Respondents)**

VERSUS

Shri. Hiranman s/o. Ramji Amuge,
Age: 40 years, Occu. Agril,
R/o. Wadarwadi, Tq. Ahmedpur,
Dist. Latur

**...RESPONDENT
(Ori. Claimant)**

**WITH
FIRST APPEAL NO.3938 OF 2016**

1. The State of Maharashtra,
Through The Collector,
Latur,
2. The Special Land Acquisition Officer,
Purna Project, Latur,
3. The Executive Engineer,
Minor Irrigation Division, Latur

**...APPELLANTS
(Ori. Respondents)**

VERSUS

Shri. Hiranman s/o. Ramji Amuge,
Age-40 years, Occu.:Agril,
R/o. Vadarwadi, Tq. Ahmedpur,
Dist. Latur

**...RESPONDENT
(Ori. Claimant)**

**WITH
FIRST APPEAL NO.3939 OF 2016**

1. The State of Maharashtra,
Through The Collector,
Latur,
2. The Special Land Acquisition Officer,
Purna Project, Latur,
3. The Executive Engineer,
Minor Irrigation Division, Latur

**...APPELLANTS
(Ori. Respondents)**

VERSUS

Shri. Hiranman s/o. Ramji Amuge,
Age:40 years, Occ.: Agril,
R/o. Vadarwadi, Tq. Ahmedpur,
Dist. Latur.

**...RESPONDENT
(Ori. Claimant)**

...
Mr. S.N. Morampalle, A.G.P. for Appellant State
Mr. G.K. Sontakke, Advocate for Respondent (Absent)

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

DATE : 16th November 2016

ORAL JUDGMENT:

1. Heard learned A.G.P. Since all these appeals are arising out of acquisitions made for construction of percolation tank at village Wadarwadi Tq. Ahemadpur,

District Latur and since in all these matters compensation was determined by the Special Land Acquisition Officer at the rate of Rs.21,000/- per hectare, I have heard the common arguments in all these appeals and I deem it appropriate to decide these appeals by common reasoning.

2. The land which is the subject matter of First Appeal No.3937 of 2016 was acquired vide notification dated 21st of July 1992 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"). The land involved in First Appeal No.3938 of 2016 was acquired vide notification dated 9th August 1990 whereas the land which is the subject matter of First Appeal No.3939 of 2016 was acquired by the notification dated 5th June 1993. All the aforesaid lands were acquired for construction of a Percolation Tank at village Wadarwadi, Tq. Ahemadpur, Dist. Latur. The Land Acquisition Officer has assess the market value of the acquired lands at the rate of Rs.21,000/- per hectare and has accordingly offered compensation to the respective claimants. Dissatisfied with the amount of compensation so offered, the claimants had preferred applications under Section 18

of the Act to collector Latur who in turn forwarded all these applications to the District Court, Latur, (hereinafter referred to as "Reference Court") for adjudication. Before the Reference Court the claimants had claimed compensation at the rate of Rs.2,50,000/- per hectare. In order to substantiate the claim so made, in addition to their own oral evidence the claimants had commonly relied upon two sale instances. No oral evidence was adduced on behalf of State Government or the Special Land Acquisition officer. The learned Reference Court on its assessment of the oral and documentary evidence brought on record before him, determined the market value of the acquired land at the rate of Rs.62,000/- per hectare and accordingly enhanced the amount of compensation. The Reference Court also awarded the statutory benefits under the provisions of the act to the respective claimants. Aggrieved thereby, the State has preferred the present appeals.

3. Shri S.N.Morampalle, learned A.G.P. appearing for the appellant State, submits that the Reference Court has grossly erred in determining the market value of the acquired lands on the basis of a sale instance pertaining to

a small piece of land. Learned A.G.P. further submitted that the Reference Court has further ignored the fact that the sale instance relied upon was of the land situated at different village and as such also the same could not have been relied upon for fixing the market value of the acquired lands. Learned A.G.P. submitted that the Reference Court has determined the market value on higher side without there being any cogent and sufficient evidence therefor. Learned A.G.P. further submitted that the Special Land Acquisition Officer had appropriately assessed the compensation to be awarded to the respective claimants considering the sale deeds executed in the relevant period and by actually visiting the respective lands. Learned A.G.P. has, therefore, prayed for setting aside the impugned judgments and, consequently to re-determine the market value of the acquired lands and consequently the compensation to be paid to the respective land holders.

4. Nobody had appeared for the respondents i.e. Original claimants.

5. I have carefully perused the impugned

judgment and other material on record. As has been discussed by the learned Reference Court, though the acquired lands are stated to be situated at village Wadarwadi, everywhere the reference is also to village Ujana either in bracket after Wadarwadi and at some places the name of village Wadarwadi is in bracket after village Ujana. It is, thus, evident that the acquired lands are situated at village Ujana (Wadarwadi) or Wadarwadi (Ujana). It is not in dispute that no oral or documentary evidence in the form of sale instances is adduced on behalf of the State. Thus, the oral evidence of the respective claimants and the sale instances placed on record by the claimants was the only evidence before the Reference Court for determining the market value of the acquired lands and accordingly, the Reference Court has assessed the amount of compensation payable to the respective land holders.

6. The material on record reveals that the claimants had placed on record two sale instances, respectively, at Exh.15 and Exh.16 in order to substantiate the claim so raised by them seeking enhancement in the

amount of compensation. As has been discussed by the Reference Court, the sale deed at Exh.15 was pertaining to the land situated at different village whereas the sale deed which was at Exh.16 was of the same village from where the subject lands were acquired. The Reference Court has, therefore, considered the said sale instance at Exh.16 for determining the market value of the acquired lands. The land which was the subject matter of the sale deed at Exh.16 was admeasuring 3 R. and it was sold vide registered sale deed executed on 12th April, 1993, for consideration of Rs.9,000/- i.e. at the rate of Rs.3,00,000/- per Hectare. In this context, it was argued by the learned A.G.P. that such a sale instance could not have been relied upon by the Reference Court for determining the market value of the acquired lands. The objection so raised by the learned A.G.P., however, cannot be accepted in view of the observations made by the learned Reference Court and the ultimate conclusion recorded by it after having discussed the said evidence in the form of aforesaid sale instance.

7. The learned Reference Court was conscious of

the fact that the sale deed at Exh.16 was of a small piece of land and further that the said land was abutting to main road. The Reference Court has further observed that the possibility of receiving higher amount for the aforesaid land, for the reason that the primary notification for acquisition of the lands in the said area was published in the year 1992, was difficult to be ruled out. The Reference Court, after having considered the aforesaid minus factors has recorded a conclusion that though the land which was subject matter of Exh.16 was sold at the rate of Rs.3,00,000/- (Rs. Three lacs) per hectare, the real price of the said land was around Rs.1,00,000/- (Rs. One lac) per hectare. The Reference Court has further observed that since the aforesaid piece of land was abutting to main road, naturally, higher price was fetched to the said land and considering the said aspect, the Reference Court has ultimately held that the market value of the land situated at village Wadarwadi at the relevant period was around Rs.66,667/- per hectare and has, accordingly determined the market value of the acquired land.

8. It has to be noted that the claimants were claiming the compensation at the rate of Rs.2,50,000/-

(Rs. Two lacs, Fifty thousand) per hectare. It was also the contention of the claimants that their lands were irrigated lands and hence were liable to be awarded some more compensation. Perusal of the impugned judgment reveals that the Reference Court has rejected the aforesaid contentions of the claimants on the basis of the evidence on record. The material on record reveals that the claimants were much persuasive in submitting that the acquired lands are irrigated lands and were, therefore, insisting for determining market value of the said lands as irrigated lands. The contention of the applicant was that they have proved the existence of wells in their respective lands and that was sufficient to draw an inference that the acquired lands were irrigated lands. The Reference Court, however, in paragraph no.19 of the impugned judgment has elaborately discussed as to why it has not accepted the contention so raised by the claimants. The Reference Court has observed that the appellants did not file on record the 7/12 extracts of the preceding three years of the publication of Section 4 notification. The learned Reference Court has further observed that mere existence of well is not enough and the appellants are

further required to prove that by using well water they were taking cash crops. In absence of any such evidence placed on record by the appellants, the Reference Court has declined to accept the contention of the appellants that the acquired lands were irrigated lands. It, therefore, cannot be said that there was no application of mind by the learned Reference Court while enhancing the amount of compensation.

9. After having considered the entire material on record, it appears to me that the Reference Court has objectively assessed the evidence and has accordingly determined the market value of the of the acquired lands. I do not see any infirmity in the judgment and order so passed. No such material is placed on record by the appellant State so as to take any contrary view. The appeals are devoid of any merit and deserve to be dismissed and are accordingly dismissed, however, without any order as to the costs. Civil Applications, if any, stand disposed of.

(P.R.BORA)
JUDGE

AGP/