IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

First Appeal No.52 of 2008

1) The State of Maharashtra
Through Collector, Jalna.

2) The Special Land Acquisition
Officer (B & C), Jalna.

3) The Executive Engineer,
Minor Irrigation Division,
Buldhana,
C/o Masrool Irrigation Project,
Minor Irrigation Division No.2,
Chikhali, Taluka Chikhali. .. **Appellants.**

Versus

* Rajdhar s/o Shridhar Deokar,
Age Major,
Occupation: Agriculture,
R/o Dhamangaon,
Taluka & District Buldhana. .. **Respondent.**

Shri. A.R. Borulkar, Assistant Government Pleader, for appellants.

CORAM: T.V. NALAWADE, J.

DATE : 10th FEBRUARY 2016

JUDGMENT:

1) The appeal is filed by the State against the judgment and award of Land Acquisition Reference No.106 of 1996. Heard learned Assistant Government Pleader.

2) The land of the present respondent-claimant is acquired for construction of Masrool Project, irrigation project at village Padmawati, Tahsil Bhokardan, District Jalna. The notification under section 4 of the Land Acquisition Act was published in Government Gazette dated 28-1-1993. The Special Land Acquisition Officer granted compensation at the rate of Rs.290/- per R by presuming that there was no perennial irrigation facility. The Reference Court has enhanced the compensation to make to Rs.900/- per R and the increase of Rs.610/- per R is given by the Reference Court.

3) To substantiate the claim, claimant examined himself and he placed reliance on the decision given by the Reference Court in LAR No.117 of 1996 (decided on 31-8-2002). He placed reliance on sale instance also. The sale instance was of 10-8-1992. Under the sale instance, 20 R portion was sold for consideration of Rs.19,500/-. Thus the approximate value was Rs.1000/- per R. Another sale instance dated 22-1-1992 was produced at Exhibit 22 and under this sale deed, 40 R portion was sold for consideration of Rs.45,000/-. For the aforesaid project,

lands from three villages were acquired and so this sale instance could have been considered by the Reference Court.

4) The Reference Court has considered the circumstances like existence of well in the land, pipe line which was laid for irrigation purpose and the share of the claimant in the water of the two wells. The Reference Court has held that the Special Land Acquisition Officer ought to have considered those facilities and ought to have given higher rate. When there are aforesaid two sale instances and higher market price was of Rs.45,000/- for 40 R portion, the Reference Court refused to consider those sale instances but placed reliance on the decision given of LAR No.117 of 1996. In that matter the rate of Rs.900/- per R i.e. Rs.90,000/- per hectare was given which is lower than the rate which could have been given on the basis of the sale instances. In view of these circumstances, this Court holds that it is not possible to interfere in the decision of the Reference Court. In the result, the appeal stands dismissed.

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