

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL (STAMP) NO. 19898 OF 2016

1. The State of Maharashtra,
Through the Special Land Acquisition
Officer No.1, Ahmednagar.
 2. The Executive Engineer,
Minor Irrigation (Local Sector)
Division Ahmednagar. ... Appellants
- Vs.**
- Vijay Laxman Belote,
Age-35 yrs, Occ-Agril,
R/o Devibhoyare, Tq. Parner,
Dist. Ahmednagar. ... Respondent

with
FIRST APPEAL (STAMP) NO. 19901 OF 2016

1. The State of Maharashtra,
Through the Special Land Acquisition
Officer No.1, Ahmednagar.
 2. The Executive Engineer,
Minor Irrigation (Local Sector)
Division Ahmednagar. ... Appellants
- Vs.**
- The Parner Taluka Co-operative Sugar
Factory Ltd.,
Through its Managing Director,
Shri Krushna Baburao Kanhore,
Age-55 yrs, Occ-Service,
R/o Devibhoyare, Tq. Parner,
Dist. Ahmednagar. ... Respondent

with
FIRST APPEAL (STAMP) NO. 19904 OF 2016

1. The State of Maharashtra,
Through the Special Land Acquisition
Officer No.1, Ahmednagar.
2. The Executive Engineer,
Minor Irrigation (Local Sector)
Division Ahmednagar. ... Appellants

Vs.

1. Jalindra Dashrath Ghorpade,
Age-35 yrs, Occ: Agril,
2. Santosh Dashrath Ghorpade,
Age-31 yrs, Occ-Agril.,
R/o Devibhoyare, Tq. Parner,
Dist. Ahmednagar. ... Respondents

with

FIRST APPEAL (STAMP) NO. 19907 OF 2016

1. The State of Maharashtra,
Through the Special Land Acquisition
Officer No.1, Ahmednagar.
2. The Executive Engineer,
Minor Irrigation (Local Sector)
Division Ahmednagar. ... Appellants

Vs.

1. Rangnath Rama Sarade,
Age-60 yrs, Occ: Agril,
2. Chbubai Dnyandeo Pimparkar,
Age-35 yrs, Occ: Agril,
3. Sarubai Nama Sarade (Deleted)

R/o Devibhoyare, Tq. Parner,
Dist. Ahmednagar

Mr. S.P. Deshmukh, Advocate for the Appellants.
Mr. Mahesh Sonwane, Advocate for the respondents.

CORAM : P.R. BORA, J.
DATE : 15-10-2016.

ORAL JUDGMENT :

1. With consent of the learned A.G.P. And learned counsel appearing for the respondents i.e. original claimants the present appeals are taken up for final disposal at the admission stage.
2. The lands which are the subject matter of the present

appeals were acquired by the state for construction of percolation tank at Village Devibhoyar. Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) in that regard was published in the official gazette on 05.02.1998, whereas, the award under Section 11 of the Act came to be passed on 30.11.2000. The Special Land Acquisition Officer had fixed the market value of the acquired lands ranging between Rs.75,800/- to Rs. 85,000/- per hectare and had, accordingly, offered the amount of compensation to the respective claimants.

3. Dis-satisfied with the amount of compensation so offered the respective land holders filed application under Section 18 of the Act seeking enhancement in the amount of compensation. All those applications were forwarded by Collector, Ahmednagar to the Civil Court at Ahmednagar (hereinafter referred to as the Reference Court) for adjudication. In the proceedings before the reference court Shri Vijay Laxman Belote, the claimant in L.A.R. No. 221 of 2001 deposed on oath on behalf of the claimants in the connected L.A.R.'s bearing no. 218 of 2001, 219 of 2001 and 220 of 2001. The claimants in the aforesaid land acquisition references had filed pursis adopting the oral evidence of said Shri Vijay Laxman Belote. The claimants had also placed on record one sale instance (exhibit-17) to substantiate the claim so raised by them. The Special Land Acquisition Officer namely Sanjay Chunilal Bagade also deposed to substantiate the objections raised by the state, in

its written statement. The Special Land Acquisition Officer had relied upon only on one document i.e. award passed under Section 11 of the Act in respect of the acquired lands on 30.11.2000.

4. The learned reference court after having scrutinised the oral and documentary evidence brought on record before it, determined the market value of the acquired lands @ Rs. 3,00,000/- per hectare for seasonally irrigated lands and Rs. 2,00,000/- per hectare for the non-irrigated lands and accordingly enhanced the amount of compensation payable to the respective claimants depending upon the quality and type of the lands owned by the respective claimants. Aggrieved by the enhancement so awarded by the reference court the state has filed the present appeals.

5. Shri Deshmukh, learned A.G.P. criticised the impugned judgment on the ground that the reference court placing implicit reliance on the sole sale instance placed on record by the claimants has erroneously determined the market value of the acquired lands. The learned A.G.P. submitted that, the reference court did not appreciate that the sale instance which was relied upon by the claimants was pertaining to a small piece of land ad-measuring 20 R. The learned A.G.P. further submitted that, on the contrary the S.L.A.O. had taken into account more sale instances and also had personally visited the acquired lands and, thereafter, had

determined the market value of the acquired lands. The learned A.G.P. submitted that, the S.L.A.O. had correctly determined the market value of the acquired lands and no such evidence was brought on record by the claimants so as to enhance the amount of compensation.

6. The learned A.G.P. further submitted that, the claimants did not examine the vendor or the vendee to prove the sale deed at exhibit-17 and merely placed on record the certified copy of the said sale deed. According to the learned A.G.P., the claimants ought to have examined a witness to prove the said sale deed and further must have brought on record the evidence as about the similarity of the acquired lands with the land which was the subject matter of exhibit-17. The learned A.G.P. further submitted that, without any such evidence on record the reference court had arbitrarily enhanced the amount of compensation. The learned A.G.P., therefore, prayed for setting aside the order passed by the reference court and re-determine the amount of compensation to be paid to the claimants.

7. The learned counsel appearing for the respondents i.e. original claimants submitted that, though, the acquired lands are irrigated lands holding the same to be semi-irrigated lands. The reference court infact had awarded the compensation on lower side. The learned counsel further submitted that, the appeals filed by the

state are devoid of any substance the learned counsel, therefore, prayed for dismissal of the appeals.

8. I have carefully considered the submissions advanced by the learned A.G.P. and the learned counsel appearing for the original claimants, I also perused the impugned judgment and the other material placed on record by the parties.

9. As noted hereinabove one of the claimants namely Vijay Laxman Belote had testified before the reference court on behalf of all the claimants and one sale instance was produced on record by the claimant (exhibit-17). The S.L.A.O. also deposed before the reference court but he did not produce on record any sale instance to buttress the contentions raised in written statement. It is thus, evident that oral evidence of one of the claimant and the S.L.A.O., one sale instance produced on record by the claimants and copy of award passed under Section 11 of the Act was the material before the reference court to determine the market value of the acquired lands.

10. The sale instance which has been brought on record by the claimants pertains to gut no. 957, ad-measuring 20 R situated at Village Devibhoyare. The said land was sold by Pandarinath Magar to Baban Gaikwad by a registered sale deed executed on 23.01.1996 for consideration of Rs. 50,000/-. As has come on record it was seasonally irrigated land. Notification under Section 4

of the Act for acquisition of the lands which are the subject matter of the present appeals was published on 05.02.1998. The sale instance at exhibit-17, thus, had taken place two years prior to issuance of the notification under Section 4 of the Act.

11. Admittedly, the aforesaid sale pertains to the land situated at the same village from where the subject lands were acquired. In the cross-examination of the witness examined on behalf of the claimants nothing has been brought on record to show that the sale instance on which the reliance was placed by the claimants was not of a comparable land or that the said sale instance was not genuine. In view of the fact that, the sale instance was pertaining to the land of the same village and further that it was executed two years prior to the issuance of notification under Section 4 of the Act, the reference court deemed it appropriate to rely on the said sale instance for determination of the market value of the acquired lands. As noted by me hereinabove, the state has not placed on record any sale instance so that the same could have been considered in comparison with the sale instance brought on record by the claimants.

12. The land which was the subject matter of the sale deed at exhibit-17 was sold @ Rs. 2,50,000/- per hectare. In absence of any contrary evidence on record the reference court on the basis of the said sale instance held the market value of the lands in the

vicinity @ Rs. 2,50,000/- per hectare for the seasonally irrigated lands. Further, considering the fact that aforesaid sale deed (exhibit-17) was executed two years prior to the issuance of notification under Section 4 of the Act, the learned reference court gave increase at the rate of 10% per year in the rate and accordingly fixed the market value for the seasonally irrigated lands @ Rs. 3,00,000/- per hectare. It does not appear to me that, the reference court has committed any error in determining the market value of the acquired lands at the said rate. From the discussion made by the reference court in para 15 and 16 of the impugned judgment it transpires that the reference court has objectively assessed the oral and documentary evidence which was brought before it.

13. Looking to the discussion made by the learned reference court, it is difficult to accept the objection raised by the appellant state that the reference court has blindly relied upon the sole sale instance brought on record by the claimants. It is not the case that, the reference court has blindly applied the same rate which was received to the land which was the subject matter of the sale deed at exhibit-17 to the subject lands. While determining the market value of the said lands the reference court has observed that, though, it was asserted by the claimants that the acquired lands were fully irrigated land infact they were not liable to be treated as fully irrigated lands having regard to the crop pattern of

the said lands.

14. Though, it was sought to be canvassed, the learned A.G.P. that implicitly relying on the sole sale instance, the reference court has determined the market value of the acquired lands, no such material was placed on record by the state before the reference court and, thereafter, even before this court to show that the sale instance at exhibit-17 was not a comparable sale instance and, therefore, could not have been relied upon by the reference court for determining the market value of the acquired lands.

15. The reference court has further appropriately classified the acquired lands in the categories of semi-irrigated and non-irrigated and has accordingly determined the market value of the said lands and given the proportionate enhancement in the amount of compensation. After having gone through the entire discussion made by the learned reference court, I do not see any infirmity in the conclusions so recorded by the reference court. The price determined by the reference court of the acquired lands @ Rs. 3,00,000/- per hectare for the semi-irrigated lands and Rs. 2,00,000/- per hectare for the non-irrigated lands cannot be in any sense said to be unreasonable or on higher side.

16. For the reasons stated above, I do not see any reason to cause interference in the impugned judgment and award. The appeals being without any merit deserves to be dismissed and are

accordingly dismissed, however, without any order as to the costs.

Pending civil applications, if any, also stand disposed of.

(P.R. BORA)
JUDGE

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