

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

FAST NO.20394/2011group

909 FIRST APPEAL STAMP NOS.20394/2011

WITH

FAST/20408/2011

WITH

FAST/20404/2011

WITH

FAST/20412/2011

WITH

FAST/20343/2011

WITH

FAST/20382/2011

WITH

FAST/20386/2011

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, BEED
VERSUS
NAMDEO MARUTI PAWAR AND ORS

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AGP for Applicant State :Mr.N.T.Bhagat
Mr.V.P.Sawant, Adv., for respondent no. 4 (Appeared in Court - VP not
filed).

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CORAM : P.R. BORA, J.

Dated: April 21, 2016

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PER COURT :-

1. Heard the learned A.G.P. for the State. Though original claimants are duly served, have not entered their appearance in the matter. Learned Counsel Mr.V.P.Sawant has appeared for respondent no.4 i.e. the acquiring body. Since all these appeals are arising out of the common judgment and award passed by 2nd Ad hoc Additional District Judge, Beed, on 26.9.2006, in LAR No.26/2004, with the connected matters, I deem it appropriate to decide all these appeals by common reasoning.

2. The agricultural lands belonging to the respective respondents in the present appeals, situate at village Sangvi

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Patan were acquired for the purpose of increasing height of percolation tank No.1, Sangvi Patan, as per notification under Section 4(1) of the Land Acquisition Act published in Government gazette on 30th November, 2000. The Special Land Acquisition Officer No.2, Beed ("SLAO" for short), published an award under Section 11 in respect of the acquired land. Dissatisfied with the compensation awarded by the SLAO, the land holders preferred Reference Applications under Section 18 of the Land Acquisition Act. The SLAO has awarded compensation to some of the lands at the rate of Rs.340/- per R. and Rs.370/- per R. for the others. The land holders were expecting the compensation at the rate more than Rs.1,00,000/- (Rs.one lac) per acre. During the course of hearing before the Reference Court, the land holders placed on record several sale instances to buttress their claim. After having considered the said sale instances and other evidence on record, the learned Reference Court determined the market value of the lands under acquisition at the rate of Rs.900/- per R. and, accordingly, enhanced the amount of compensation. According to the appellant State, the Reference Court has unreasonably enhanced the amount of compensation and hence, all these appeals are filed taking exception to the said common judgment and award.

3. Shri N.T.Bhagat, learned A.G.P., submitted that the SLAO has correctly determined the market value of the acquired lands and no enhancement was required in the market

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value so fixed. Learned A.G.P. further submitted that there were no comparable sale instances before the Reference Court. Learned Counsel submitted that the lands which were subject matter of the sale deeds placed on record and relied upon by the claimants were not comparable with the lands under acquisition. According to learned A.G.P., in such circumstances, the Reference Court ought not have determined the market value of the lands under acquisition on the basis of the said sale deeds. Learned A.G.P., therefore, prayed for setting aside the impugned judgment and award.

4. I have carefully perused the impugned judgment. Learned Reference Court has relied upon two sale instances, the sale deeds of which are at Exh.27 and Exh.28. The recitals of the said sale deeds and their due execution was proved by the land holders by examining necessary witnesses therefor. Both the aforesaid sale deeds were executed on 5.1.1999 i.e. prior to about one year of the notification under Section 4 published for acquisition of the lands under Reference. The land which was the subject matter of Exh.27 was sold at the rate of Rs.1,000/- per R. whereas the land which was the subject matter of Exh.128 was sold at the rate of Rs.1333/- per R. The learned Reference Court has recorded that the lands which were the subject matter of the aforesaid sale deeds were of the same quality and fertility as of the lands under acquisition. The Reference Court has also considered the sale instance dated 6.8.1996 which was also considered by the

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SLAO wherein the price fetched was at the rate of Rs.714/- per R. The Reference Court has referred to one more sale deed dated 14.10.1997 pertaining to the land admeasuring 80 R. at the rate of Rs.50,000/- i.e. at the rate of Rs.625/- per R. Learned Reference court after considering all aforesaid sale instances, has determined the market value of the lands under acquisition.

5. After having perused the impugned judgment and record, it appears that the learned Reference court has elaborately discussed the evidence in the form of sale instances and has arrived at a sound conclusion. The compensation determined by the Reference Court does not in any way appear to be unreasonable or on higher side having regard to the sale instances on record. The Reference Court has further rightly observed that the market value of the lands cannot always be determined on the basis of land revenue assessment of the said lands. The Appellant state has not made out any case for causing interference in the judgment and awards impugned in the present appeals.

6. In the result, the following order:

ORDER

- 1) All the aforesaid First Appeals are dismissed.
- 2) No order as to costs.
- 3) Pending Civil Applications, if any, stand disposed of.

(P.R. BORA, J.)

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AGP/-