

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 285 OF 2016

1. The State of Maharashtra,
Through Collector, Nandurbar.
 2. The Special Land Acquisition Officer (2)
Nandurbar.
 3. The Executive Engineer,
MIW Division, Nesu Project, Dhule. ... Appellants
- Vs.**
- Shri Chmarya Aatya Gavit,
Age-Major, Occu. Agril.,
R/o. Vagadi, Tq. Navapur,
Dist. Nandurbar. ... Respondent

with

FIRST APPEAL NO. 974 OF 2016

1. The State of Maharashtra,
Through Collector, Nandurbar.
 2. The Special Land Acquisition Officer (2)
Nandurbar.
 3. The Executive Engineer,
Minor Irrigation Work Scheme, Dhule. ... Appellants
- Vs.**
- Smt. Shantibai w/o Nandlya Gavit,
Age-Major, Occu. Agril.,
R/o. Deolipada, Tq. Navapur,
Dist. Nandurbar. ... Respondent

with

FIRST APPEAL NO. 2553 OF 2016

1. The State of Maharashtra,
Through Collector, Nandurbar.
2. The Special Land Acquisition Officer (2)
Nandurbar.
3. The Executive Engineer,
MIW Division, Nesu Project, Dhule. ... Appellants

Vs.

Raoji Hogrya Gavit,
Age-Major, Occu. Agril.,
R/o. Vagadi, Tq. Navapur,
Dist. Nandurbar.

... Respondent

with

FIRST APPEAL NO. 3203 OF 2016

1. The State of Maharashtra,
Through Collector, Nandurbar.
2. The Special Land Acquisition Officer (2)
Nandurbar.
3. The Executive Engineer,
MIW Division, Nesu Project, Dhule. ... Appellants

Vs.

Mahadu Reshma Gavit,
Age-Major, Occu. Farmer,
R/o. Devlipada, Tq. Navapur,
Dist. Nandurbar.

... Respondent

Mr. S.N. Morampalle, Advocate for the Appellants.
Mr. R.C. Patil, Advocate for the respondent.

CORAM : P.R. BORA, J.
DATE : 21-11-2016.

ORAL JUDGMENT :

1. With consent of the learned counsel appearing for the parties, the present appeals are finally heard at the admission stage. Since all these appeals are arising out of the common acquisition proceedings, though, a separate judgment has been passed by the reference court in each of the references. I have heard the common arguments and I deem it appropriate to decide all these appeals by a common reasoning.

2. The lands which are the subject matter of the present

appeals were acquired for the construction of minor irrigation project at Village Devlipada, Tq. Navapur, District Nandurbar. The 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 29.05.2000 and the award under Section 11 came to be passed on 08.09.2000. The Special Land Acquisition Officer (for short 'S.L.A.O.') fixed the market value of the acquired lands @ Rs. 33,000/- per Hectare and, accordingly, offered the amount of compensation to the respective claimants. Dis-satisfied with the amount of compensation so offered the claimants preferred the applications under Section 18 of the Act to Collector, Nandurbar seeking enhancement in the amount of compensation. The applications so filed were forwarded by District Collector, Nandurbar to the Civil Court, Nandurbar (hereinafter referred to as the 'Reference Court') for adjudication.

3. In the reference court, the claimants had claimed the compensation ranging in between Rs. 95,000/- to Rs. 2,00,000/- per hectare. In order to substantiate the claims so made, the respective claimants adduced their own oral evidence and had also commonly relied upon one sale instance of the said period pertaining to a land in vicinity. No oral evidence was adduced by the state or the S.L.A.O. nor any sale instance was produced on record by the state. The reference court after having assessed the oral and documentary evidence brought before it determined the market

value of the acquired lands @ Rs. 60,911/- per hectare and, accordingly, enhanced the amount of compensation. The reference court has also held the claimants entitled for the statutory benefits. Aggrieved by, the state has preferred the present appeals.

4. Shri S.N. Morampalle, the learned A.G.P. appearing for the state has assailed the impugned judgment on various grounds. The learned A.G.P. submitted that, the reference court has manifestly erred in relying upon the sale instance pertaining to a land at village Khanapur which is near the national highway and was certainly having different potentials. The learned A.G.P. submitted that, the lands which are the subject matter in the present appeals are of the interior portion and, as such, the market value of these lands could not have been determined by the reference court on the basis of the land which was abutting to the national highway. Learned A.G.P. further submitted that, the sale instance relied upon by the learned reference court is also of small piece of land, as such, the same could not have been the basis determining the market value of the acquired lands which are in hectares. The learned A.G.P. has, therefore, prayed for setting aside the impugned award and to re-determine market value of the acquired lands.

5. Shri R.C. Patil, the learned counsel appearing for the respondents i.e. original claimants in all these appeals has

supported the impugned judgment and award. The learned counsel submitted that, the reference court has rightly relied upon the sale instance placed on record by the claimants and has granted adequate compensation. The learned counsel submitted that, the claimants were in fact expecting some more compensation than awarded by the reference court. The learned counsel submitted that, since the reference court has awarded reasonable amount of compensation no interference is required in the award so passed. The learned counsel, therefore, prayed for dismissal of the appeals.

6. I have carefully considered the submissions made by the learned A.G.P. and the learned counsel appearing for the claimants. I have also perused the impugned judgment and the other material on record. On perusal of the impugned judgment and the evidence on record, it does not appear to me that any interference may be required in the impugned judgments. Admittedly, no evidence was adduced by the appellant-state before the reference court nor any sale instance was placed on record by the state. It is, thus, evident that the only evidence before the reference court was the oral testimonies of the respective claimants and one sale instance commonly relied upon by all these claimants in order to support their claim. It is not in dispute that, the lands which were acquired are non-irrigated lands. The sale instance which has been relied upon by the learned reference court was also pertaining to a non-irrigated land. The said sale instance is at

exhibit-17 in the record of the trial court in L.A.R. No. 7 of 2005 and in all other reference applications also the same sale instance is relied upon by the reference court.

7. The land which was the subject matter of sale instance at exhibit-17 was sold by registered sale deed executed on 28.12.1998 for a consideration of Rs. 35,785/-. It was the land ad-measuring 47 R. As observed by the reference court the aforesaid land, thus, was sold @ 76,139/- per hectare. As has been argued by the learned A.G.P., the objection of the state is that the land sold vide exhibit-17 was situated at village Khanapur which is near to Surat-Dhule national highway and, as such, the same could not have been a base for determining the market value of the acquired lands which are in the interior area. Though, it was sought to be canvassed that the acquired lands were in interior portion, the evidence on record and the discussion made by the reference court reveals that, acquired lands were at the distance of two to three kilometers from the land which was the subject matter of the sale deed at exhibit-17. The reference court has in para nos. 11 and 12 of the judgment has adequately discussed the said evidence and taking into account fact that, the acquired lands are at the distance of two to three kilometers from the land which was the subject matter of the sale instance at exhibit-17 has reduced the market value of the acquired lands in that proportion and has accordingly fixed the market value of the acquired land @ Rs. 60,911/- per

hectare.

8. After having considered the material on record and in absence of any other evidence on record. it does not appear to me that reference court has committed any error in determining the market value of the acquired lands at the aforesaid rate. Nothing has been brought to my notice even in the present appeal showing that the compensation as awarded by the reference court is unreasonably higher. Further, it is revealed that the enhanced amount of compensation in all these matters is a small amount. Having regard to the fact that the reference court has not given any unreasonable increase in the amount of compensation, I do not see any merit in the present appeals. The appeals, therefore, fail 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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