

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

FIRST APPEAL NO.3260 of 2015

1. The State of Maharashtra,
Through the Collector, Beed.
2. The Executive Engineer,
M.I.L.S. Division Dist.Beed.

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

VERSUS

Sardarkhan Makbulkhan Pathan,
Age Major, Occu. Agriculture,
R/o. Daulawadgaon, Tq.Ashti,
Dist. Beed.

**...RESPONDENTS
(Ori.Claimant)**

...

WITH

FIRST APPEAL NO.3261 OF 2015

1. The State of Maharashtra,
Through the Collector, Beed.
2. The Executive Engineer,
M.I.L.S. Division Dist.Beed.

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

VERSUS

1. Mahamdahanif Bahadurkha Pathan,
2. Habib Bahadurkha Pathan,

Both Age Major, Occu. Agriculture,
R/o. Daulawadgaon, Tq.Ashti,
Dist.Beed.

**...RESPONDENTS
(Ori.Claimant)**

**WITH
FIRST APPEAL NO.3262 OF 2015**

1. The State of Maharashtra,
Through the Collector, Beed.
2. The Executive Engineer,
M.I.L.S. Division Dist.Beed.

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

VERSUS

Manvarkha Makbulkha Pathan,
Age Major, Occu. Agriculture,
R/o. Daulawadgaon, Tq. Ashti,
Dist.Beed.

**...RESPONDENTS
(Ori.Claimant)**

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Mr.N.T.Bhagat, AGP for appellants / State.
Mr. C.K.Shinde, Advocate, for respondents.

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CORAM: P.R.BORA, J.

DATE : April 7th, 2016

ORAL JUDGMENT:

1. Heard. With the consent of learned Counsel for the parties, heard finally.
2. All the aforesaid three appeals are being heard

simultaneously and I deem it appropriate to pass common judgment in view of the fact that all these three appeals arise out of the common judgment and award passed by the Joint Civil Judge, Senior Division, at Beed, in the respective Land Acquisition References. Since the factual aspects are not in dispute, I need not to repeat the said facts.

3. The award passed by the Reference Court has been objected to only on the ground that the Reference Court has relied upon the sale deed of a small portion of the land. I have gone through the record of the case and I have also perused the reasons recorded by the Reference Court. The claimants in all the aforesaid three Land Acquisition References had claimed compensation at the rate of Rs.1,00,000/- (Rs. one lac) per acre. The Special Land Acquisition Officer has declared the award thereby declaring the market value of the acquired lands at the rate of Rs.550/- per R.

4. Shri C.K.Shinde, learned Counsel appearing for the original claimants submitted that before the Reference Court three sale deeds were relied upon by the claimants; first of the date 17.11.2003 (Exh.19), second was 25th June, 2003 (Exh.20), and the last was of 30 November, 2002 (Exh.21).

Learned Counsel pointed out that the land which was the subject matter of the sale deed at Exh.19 was admeasuring 15 R. and was sold for Rs.45,000/- i.e. at the rate of Rs.3,000/- per R. The land which was the subject matter of Exh.20 was admeasuring 15 R. and was sold for Rs.40,000/- i.e. at the rate of Rs.2667/- per R; whereas, the land which was subject matter of Exh.21 was admeasuring 40 R. and was sold for Rs.1,00,000/- i.e. at the rate of Rs.2500/- per R. Learned Counsel pointed out that sale instances at Exhs.19 and 20 were of the adjacent lands purchased by the purchasers therein. Learned Counsel further brought to my notice that the Reference Court while considering the said sale instances has observed that the purchasers of the said sale deed were benefitted because of well water, electric motor and pipeline and considering the advantages attached to the said land, the Reference Court deducted 30% amount from the market price of those lands and fixed the market value at the rate of Rs.2100/-, Rs.1867/- and Rs.1750 per R., respectively.

Learned Counsel further brought to my notice that considering the overall evidence, the Reference Court has ultimately fixed the market price at Rs.1950/- per R. for seasonally irrigated land and Rs.1460/- per R. for Jirayat land. Learned Counsel submitted that the Reference Court has

rightly fixed the market value and assessed the compensation and no interference is required in the award so passed.

5. I have carefully gone through the record of the case. From the award passed by the Special Land Acquisition Officer, it is revealed that while determining the market value of the subject lands, there were six sale instances before the Land Acquisition Officer. From the discussion made by the Special Land Acquisition Officer it is revealed that while determining the market value, he has relied upon only one of such instance which is of the date 24.2.2000 wherein two hectares of land was sold for the price of Rs.90,000/- i.e. Rs.450/- per R. The Special Land Acquisition Officer has further noted that the ready reckoner rate of the said land was Rs.550/- per R. However, it is quite evident that the Special Land Acquisition Officer has not at all taken into account the other sale instances. From the information which is given in tabular form in the award passed by the Special Land Acquisition Officer, it is revealed that in the other sale instances, the price received for the respective lands per R. was ranging from Rs.729/- per R. to Rs.2666/- per R. The sale instances relying upon which the Special Land Acquisition Officer has determined the market value is of the year 2000.

Admittedly, the Section 4 notification was published on 5.2.2004. It, therefore, cannot be said that the price at which the sale had occurred in 2000 was comparable to the price which may be existing in the year 2004. On the contrary, the other sale instances which have not been considered by the Special Land Acquisition Officer are of the year 2003 and 2004. One of the sale instance is of 31st August, 2004, i.e. after the date of publication of the notice under Section 4 of the Land Acquisition Act wherein for 80 R. land the price was received at the rate of Rs.1875/- per R.

6. Having considered the aforesaid evidence, it does not appear to me that the Reference Court has committed any error in assessing the compensation at the rate of Rs.1950/- per R. for seasonally irrigated land and Rs.1460/- per R. for Jirayat land.

7. I have carefully gone through the discussion made by the Reference Court and it is revealed that all the circumstances are adequately taken into account by the Reference Court and, accordingly, decision has been arrived at. I do not see any perversity or incorrectness in the impugned Judgment and Award. It appears to me that the Reference

Court has determined the market value of the subject land fairly and properly and I, therefore, see no reason for causing any interference in the judgment and order so passed. The appeals filed by the State are devoid of substance. Hence, the following order:

ORDER

- a) All the three appeals are dismissed without any order as to the costs.

(P . R . BORA)
JUDGE

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AGP/3260-3261-3262-15fagr