

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2349 OF 2015

1. Keraba Bapu Kharat,
Age 67 years, Occu. Agri.,
R/o Sakat Taluka Paranda,
District Osmanabad
 2. Youraj Keraba Kharat,
Age 30 years, Occu. Agri.,
R/o As above
- ..Appellants

Versus

1. The State of Maharashtra,
through the Collector,
Osmanabad
 2. The Deputy Collector,
Land Acquisition, Boom
Taluka Bhoom,
District Osmanabad
 3. The Executive Engineer,
Medium Project, Osmanabad,
Taluka and Dist. Osmanabad
- ..Respondents

Mr Abhijit S.More, Advocate for appellants
Mr S.R. Yadav, A.G.P. for respondents No.1 and 2
Mr D.B. Pawar, Advocate for respondent No.3

CORAM : V. K. JADHAV, J.

DATE : 15th JUNE, 2016

PER COURT

Heard finally with the consent of the parties.

2. Being aggrieved by the judgment and order dated 10th June 2015, passed by Civil Judge (Sr.Division), Paranda in L.A.R. No.270 of 2012 to the extent that the compensation awarded to the

appellants-claimants, is restricted to the extent of Rs.1,00,000/-.

3. The learned Counsel for the appellants - claimants submits that in paragraph 18 of the judgment, the reference Court has observed that it is just and proper to grant the compensation at the rate of Rs.32,000/- per acre along with all the statutory benefits in respect of non-irrigated land and at the rate of Rs.64,000/- per acre for irrigated land at village Sakat (Bk), Taluka Paranda, District Osmanabad. Learned Judge of reference Court further observed that the claimants have proved that their acquired land was irrigated land, however, the reference Court held that the claimants are entitled for enhanced compensation to the extent of Rs.1,00,000/-, as the claimants have restricted their claim up to Rs.1 lakh.

4. The learned Counsel for the appellants - claimants submits that enhancement of the compensation awarded to the extent of the claim as restricted by the claimants, is not proper and correct. The appellants - claimants are ready to pay the deficit Court fees, if directed by this Court. The learned Counsel for the appellants submits that the claimants should get just and reasonable compensation, as concluded by the reference Court in paragraph 18 of the judgment. The learned Counsel, in order to substantiate his contention, placed reliance on the judgment of Apex Court in the matter of **Chandrashekhar & Ors. Vs. Additional Special Land Acquisition Officer**, reported in **2009 (14) SCC 441**.

5. I have also heard the learned Counsel for the respondent - Acquiring Body and learned A.G.P. for the State.

6. The learned Judge of the reference Court, in paragraph 18 of the judgment has made the following observations :

“18. It is just and proper to grant the compensation at the rate of Rs.32,000/- per acre alongwith all statutory benefits in respect of non-irrigated lands. As per settled law the market value of the seasonal irrigated land should be 1 - ½ time of non-irrigated land and double for the irrigated land. It means market value of the irrigated land at village Sakat was Rs.64,000/- per acre. Claimants have proved that their acquired land was irrigated land.”

7. In view of the same, the claimants are entitled for the compensation at the rate of Rs.64,000/- per acre for the acquired land and the total compensation comes to Rs.2,99,200/-. The learned Judge of the reference Court has refused to award the compensation to the claimants for the reason that the claimants have restricted their claim up to Rs.1,00,000/-.

8. In the light of the observations made by the Supreme Court in the case of **Chandrashekhar & Ors.** (referred supra), I am inclined to allow the appeal to that extent with the directions that the appellants - claimants shall pay the deficit Court fees within a period of eight weeks from today. Hence, the following order :

ORDER

- (i) Appeal is hereby allowed with proportionate costs.
- (ii) The judgment and award dated 10th June 2015, passed by Civil Judge (Sr.Division), Paranda in L.A.R. No.270 of 2012 is hereby modified in the following manner:
 - (iii) The claimants in L.A.R.No.270 of 2012 (Kerba Bapu Kharat and anr. Vs. The State of Maharashtra through the Collector and ors.) are entitled for enhancement in the amount of compensation of Rs.2,99,200/- (Rs.Two lakhs ninety nine thousand two hundred) along with all statutory benefits, after deducting the amount of compensation already withdrawn by them under protest in respect of Gut No.144/1 admeasuring 3 hectares, 88 Aar and in respect of Gut No.144/2 for 1 hectare, 74 Aar land, to the extent of their 1/6th share, situated at village Sakat (Bk), Taluka Paranda, District Osmanabad.
 - (iii) Rest of the judgment and award stands confirmed.
 - (iv) Award be drawn up in tune with the modification, as aforesaid.
 - (v) Appeal is accordingly disposed of.

(V. K. JADHAV, J.)