

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

911 FIRST APPEAL NO.2242 OF 2016

FULCHAND BANSILAL BHUTADA DIED THR LRS
SUBHADRA BAI AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Appellants : Mr. Patil Kalyan V.
Mr. G.O.Wattamwar, AGP for Respondents: 1 & 3;
Mr. Manale Satish S., Adv. For R/2.

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CORAM : P.R.BORA, J.

DATE : 30th November, 2016.

PER COURT :

1) Heard the learned Counsel for the respective parties.

2) The present appeal is filed against Judgment and Order passed by AD hoc District Judge, Latur in LAR No.194/2005 on 28th February, 2007. The present appellants had filed the aforesaid LAR seeking enhancement in the amount of compensation awarded for acquisition of the well in his land. The Reference Court has

awarded the compensation of Rs.50,000/- towards acquisition of the well. According to the appellants, the Reference Court has awarded inadequate compensation without considering the evidence adduced by the appellants/claimant.

3) Shri Manale, learned Counsel appearing for the acquiring body, has resisted the contention raised by the appellants – claimants and submitted that the Reference Court has awarded a reasonable amount of compensation for acquisition of the well and no interference is required in the impugned Judgment and Award.

4) On perusal of the impugned judgment, it is revealed that the Reference Court has appropriately assessed the evidence adduced from both the sides. The material on record reveals that the appellants – claimants had placed on record the valuation report by private valuer at Exh.12. The said report indicates that the private valuer has assessed the value of the well

in question to the tune of Rs.73,575/-. The material on record further reveals that the State Government has also placed on record the valuation report by the Deputy Executive Engineer, who has valued the well at Rs. 29,305/-. The Reference Court has observed that the private valuer has prepared the valuation report without giving any notice to the acquiring body. It is also observed by the Reference Court that while carrying out the valuation by Deputy Executive Engineer, no adequate notice was given to the appellants – claimants. Learned Counsel Shri Manale however, pointed out from the record that panchanama prepared at the time of the valuation reflects that the appellants were present and have signed the said report.

5) The Reference Court has observed that both the valuation reports cannot be accepted and the price of the well requires to be determined by doing some guess work. Accordingly, the exercise was done by the Reference Court and

ultimately, the market value of the well is determined to the tune of RS.50,000/-. From the available material on record, it does not appear to me that the Reference Court has committed any error in determining the market value of the well. No case is made out for granting any enhancement in the amount of compensation so determined. It also does not appear to me that the amount of compensation, as has been determined by the Reference Court, is either unreasonably high or on lower side. On the contrary, it appears to have been appropriately fixed.

6) It does not appear to me that the Reference Court has committed any error in determining the compensation, as aforesaid. The appeal being devoid of any substance, stands dismissed.

7) The learned counsel for the appellants submitted that though the well was acquired in

the year 2002, till date no compensation is received to the appellants – claimants. In the circumstances, the respondents are directed to release the amount of compensation with statutory benefits and interest accrued thereon to the appellants – claimants within a period of six months from the date of this order.

(P.R.BORA)
JUDGE

bdv/