

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1428 OF 2016

Sk.Ali s/o Sk.Ismail,
Age 51 yrs. Occ: Agriculture
R/at: Pangri Tq. & Dist.Nanded.

**...APPELLANT
(Orig.Claimant)**

VERSUS

1. Swami Ramanand Tirth Marathwada University,
"Dnyan Teerth" Vishnupuri Nanded,
Through its Vice Chancellor.
2. The State of Maharashtra,
Through District Collector, Nanded,
Collector office Nanded.
3. The Special Land Acquisition Officer,
U.P.P.No.1, Nanded.

...RESPONDENTS

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Mr.P.P.Mandlik h/f Mr. Amol S.Gandhi, Advocates for the
appellant.

Mr.Uday S.Malte, Advocate for respondent no.1.

Mr.G.O.Wattamwar, AGP for respondent State.

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CORAM : P.R. BORA, J.
Dated: August 10, 2016

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ORAL JUDGMENT :-

1. Heard. Admit. With the consent of learned
Counsel for the parties taken up for final disposal.

2. The original claimant in Land Acquisition
Reference No.259/2000 has filed the present appeal

seeking enhancement in the amount of compensation as awarded by the Civil Judge, Senior Division (hereinafter referred as the Reference Court) in the aforesaid Reference vide judgment delivered on 14.6.2011.

3. The land owned by the present appellant was acquired for the purpose of construction of Sub Center of respondent no.1 University at village Vishnupuri and Pangri taluka and district Nanded. Notification under Section 4 of the Land Acquisition Act (hereinafter referred to as the Act) was issued on 6th of July, 1989, and the award under Section 11 of the Act was passed on 16.2.1992. The Land Acquisition Officer awarded the compensation at the rate of Rs.30,000/- per hectare. Dis-satisfied with the compensation so awarded by the Land Acquisition Officer, the appellant filed the Reference Application under Section 18 of the Act seeking enhancement in the amount of compensation.

4. In the Reference so filed, the appellant had claimed compensation at the rate of Rs.5,00,000/- per

hectare. It was the contention of the appellant before the Reference Court that the acquired land was having non agricultural potentiality and was situated near the State Highway of Nagpur-Tuljapur. It was the further contention of the appellant that Irrigation Colony and the other Government offices were nearby acquired land. It was further contention of the appellant that the land was also near to the Radio Center and the T.V. Center and was at a distance of few kilometers from the City of Nanded. The appellant had deposed before the Reference Court and also produced on record certain comparable sale instances. The Reference Court, on its assessment of the evidence brought before it, enhanced the amount of compensation at the rate of Rs.75,000/- per hectare and granted other statutory benefits.

5. According to the appellant, the Reference Court has not awarded the adequate compensation and while assessing the amount of compensation has not properly determined the market value of the acquired land. It is the further contention of the appellant that the evidence

produced on record by the appellant and more particularly, the sale instances have not been appropriately considered by the Reference Court.

6. Learned Counsel, across the Bar, tendered the copy of the judgment passed by the learned Single Judge of this Court on 20th November, 2013, in First Appeal No.67/1997, with connected appeals. Learned Counsel submitted that the lands involved in the aforesaid appeals were also acquired for the purpose of establishment of the Sub Center of the respondent University. Learned Counsel submitted that the land of the appellant, acquired for the purpose of establishment of Sub Center, was situated at village Pangri. Learned Counsel submitted that in the aforesaid First Appeals decided by this Court on 20.11.2013 were also of village Pangri. Learned Counsel submitted that the acquired lands which were the subject matter of the aforesaid decided appeals and the acquired land which is the subject matter in the present appeal, in all respects, stand at par with each other. In the circumstances, learned Counsel submitted that the

enhancement, as was awarded by this Court while deciding the aforesaid appeals, may be granted in the present appeal also.

7. Shri Malte, learned Counsel appearing for the respondent University and the learned A.G.P. appearing for the State have not disputed that in the earlier matters arising out of the same project, the learned Single Judge of this Court has enhanced the compensation and held the respective claimants in the aforesaid appeals entitled for the compensation at the rate of Rs.1,75,000/- per hectare with all the statutory benefits. It was, however, further contended by Shri Malte and learned A.G.P. Mr.G.O.Wattamwar that the land involved in the present appeal, being situated at the interior, cannot be granted the same compensation as has been granted by this Court in the afore mentioned decided appeals. According to the learned Counsel and the learned A.G.P., the Reference Court has granted adequate amount of compensation to the appellants / claimants and, as such, no interference is required in the impugned judgment and order.

8. I have carefully considered the submissions advanced by the learned Counsel appearing for the respective parties. I also did peruse the judgment delivered by this Court (Coram: S.V.Gangapurwala, J.) on 20th November, 2013, in First Appeal No.67/1997 with connected appeals.

9. It is not in dispute that the land belonging to the present appellant was acquired for the purposes of establishment of the Sub Center of respondent University at village Pangri. Perusal of the judgment delivered by this Court on 20th November, 2013, referred to here-in-above, reveals that the acquired lands, which were subject matter of the aforesaid decided appeals, were also of village Pangri. In the said matters also, the Special Land Acquisition Officer has awarded compensation at the rate of Rs.28,000/- to Rs.35,000/- per hectare. In the said matters, the notification under Section 4 of the Act was issued on 3rd February, 1987 whereas, in the instant matter, the notification under Section 4 of the Act was

issued on 6th of July, 1989. The material on record shows that the appellant had placed on record certain sale instances in order to substantiate his claim. One of the sale instance relied upon by the appellant pertains to 60 R. land out of Gat No.52 situated at village Vishnupuri wherein the owner of the said land, namely, Malanbai Nagorao Pande had sold the said land to Shri Guru Gobind Singhji College for total consideration of Rs.2,01,000/-. It was the contention of the appellant that the land under acquisition being at a short distance from the aforesaid land, was liable to receive the same value and, accordingly, the Reference Court must have determined the market value of the appellants land. In the judgment delivered by this Court in First Appeal No.67/1997, with the connected appeals, referred hereinabove, there is a reference of the aforesaid sale instance and this Court has enhanced the amount of compensation on the basis of the aforesaid sale instance.

10. From the material on record, there is reason to believe that the land which is the subject matter of the

present appeal stands at par with the lands which were the subject matter of the aforesaid decided appeals. In the circumstances, I do not see any reason for taking any contrary view than the one taken by this Court in the judgment of the aforesaid appeals. It is not in dispute that the lands which were acquired for the establishment of the University Sub Center from village Vishnupuri and village Pangri were adjacent to each other and in continuity.

11. For the reasons stated above, I determine the market value of the land acquired of the appellant at the rate of Rs.1,75,000/- per hectare. The impugned award, therefore, needs to be modified to the aforesaid extent. It is held that the appellant is entitled for the compensation for his acquired land at the rate of Rs.1,75,000/- per hectare. Thus, the amount of compensation is enhanced by Rs.1,00,000/- (Rs.one lac) per hectare. The appellant is entitled to receive the aforesaid enhanced amount of compensation with all the statutory benefits provided under the Land Acquisition Act.

In the order passed by this Court on 3rd March, 2016, while condoning the delay which has occurred in filing the appeal, this Court had dis-entitled the appellant from claiming any interest for the period of delay. In view of the order so passed, it is clarified that the appellant will not be entitled for any interest on the amount of enhanced compensation for the period of delay of 465 days.

The First appeal accordingly stands partly allowed.

(P.R. BORA, J.)

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