

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

915 FIRST APPEAL NO. 1230 OF 2007

The State of Maharashtra.

... APPELLANT
(Ori. Respondent)

VERSUS

Gopaldas s/o Dwarkadas Bhatiya,
Age major, Occu. Agriculture,
R/o. Vaijapur, Tq. Vaijapur,
District Aurangabad.

... RESPONDENT
(Ori. Claimant)

WITH

CROSS-OBJECTION (STAMP) NO. 17634 OF 2008
IN FA/1230/2007

Gopaldas s/o Dwarkadas Bhatiya,
Age 58 years, Occ. Agril.,
R/o. Bhatiya Galli, Vaijapur,
Tq. Vaijapur, Dis. Aurangabad.

... APPELLANT
(Ori. Claimant)

VERSUS

The State of Maharashtra.

... RESPONDENT
(Ori. Respondent)

...
Mr. S. N. Morampalle, AGP for the State.
Mr. P. F. Patni, Advocate for the Claimant.
...

CORAM : **V. K. JADHAV, J.**
DATE : 27th July, 2017.

ORAL JUDGMENT:

. Being aggrieved by the common judgment and award

passed by the Joint Civil Judge Senior Division, Aurangabad dated 15th December, 2001 in LAR No.142 of 1999 alongwith LAR No.143 of 1999, the Respondent / State has preferred First Appeal No.1230 of 2007 whereas original Claimant in LAR No.142 of 1999 has filed cross-objection.

2 Brief facts giving rise to the present appeal and the cross-objection are as follows:

The agricultural land owned and possessed by the Claimants situated at Vaijapur, Taluka Vaijapur, District Aurangabad came to be acquired by the Government for the purpose of construction of Narangi-Sarangi medium project. Section 4 notification was published on 30th July, 1994 and the Special Land Acquisition Officer has awarded the compensation at the rate of Rs.700/- per Are for the land Gat No.28, which is a subject matter of LAR No.142 of 1999 and awarded the compensation at the rate of Rs.625/- per Are for the land Gat No.58, which is the subject matter of LAR No.143 of 1999. Being dissatisfied with the inadequate compensation awarded by the Special Land Acquisition Officer, the present Claimant and another Claimant Dharamsee preferred the aforesaid claim petitions bearing LAR No.142 of 1999 and LAR No.143 of 1999 respectively.

3 The learned Joint Civil Judge Senior Division, Aurangabad vide its judgment and award dated 15th December, 2001 has awarded the compensation at the enhanced rate of Rs.1,000/- per Are for both the lands. Being aggrieved by the same, the State has preferred the aforesaid appeal and the original Claimant has filed the cross-objection. The learned counsel for original Claimant submits that being aggrieved by the judgment and award passed by the Reference Court as aforesaid, the Petitioner in LAR No.143 of 1999 has preferred First Appeal No.843 of 2002 before this Court and this Court by order dated 14th September, 2006 allowed the appeal and declared that the original Petitioner Dharamsee / Appellant therein is entitled to the compensation by considering the market price of the land to be Rs.1,500/- per Are and by calculation of other statutory benefits on the basis of the same. The learned counsel submits that the Claimant / Cross-Objector is also entitled for the same rate. The order passed by this Court in First Appeal No.843 of 2002 has now attained the finality and the State has not preferred any appeal against it. The learned counsel submits that in terms of the order passed by this Court in the aforesaid first appeal, the State has paid the entire amount under award as directed by this Court to the said original Claimant Dharamsee.

4 The learned AGP appearing for the State has also not disputed this position.

5 On perusal of the order passed by this Court dated 14th September, 2006 in First Appeal No.843 of 2002, it appears that this Court had an occasion to deal with the same common judgment and award passed by the Reference Court in LAR Nos.142 of 1999 and LAR No.143 of 1999. After considering the judgment and award passed by the Reference Court and the evidence on record, this Court has allowed the appeal and held that the said original Claimant / Appellant Dharamsee is entitled to the compensation for the acquired land at the rate of Rs.1,500/- per Are. The Respondent / original Claimant by way of filing the cross-objection has also claimed the compensation at the enhanced rate of Rs.1,500/- per Are for his acquired land. In view of the same, there is no reason to take any other view. Hence, the following order:

ORDER

- I. **First Appeal No.1230 of 2007** (The State of Maharashtra Vs. Gopaldas Dwarkadas Bhatiya) is hereby dismissed with costs.

II. Cross-Objection (Stamp) No.17634 of 2008

(Gopaldas Dwarkadas Bhatiya Vs. The State of Maharashtra), is hereby allowed and it is hereby declared that Cross-Objector / Gopaldas Dwarkadas Bhatiya is entitled to compensation for the acquired land at the enhanced rate of Rs.1,500/- per Are alongwith all the permissible statutory benefits as awarded by the Reference Court.

III. Award be drawn up as per the above modification.

IV. The appeal and the cross-objection are accordingly disposed of.

[V. K. JADHAV, J.]

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