

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.472 OF 2002

The Nanded Municipal Council,
Nanded, per its Chief Officer,
Municipal Council Campus,
Nanded

..APPELLANT
(Orig. Resp.No.3)

VERSUS

1. The State of Maharashtra
per District Collector,
Nanded ..Orig.Resp No.1
 2. The Special Land Acquisition
Officer, UPP No.1,
Collectorate,Nanded ..Orig.Resp No.2
 3. M/s Nanded Development
Syndicate, Nanded,
a registered partnership
firm for its present partners
and persons interested. ..Orig. Claimant
- (i) Ramkunwar Devi w/o
Dwarkadas Shukla,
Age:52 years, Occu.Business,
R/o. Nanded,
- (ii) Sitaram Maganlal Shukla,
Age:60 years, Occu.Business,
R/o. Nanded,
- (R.3(ii) abated as per R's
court order dated 7/7/2009.)**
- (iii) Kishorkumar s/o Sumeshchandra
Varma
Age:36 years, Occu. Business,
R/o. Nanded, Sumesh Colony,

Vazirabad, Nanded,

- (iv) Ritan Devi w/o Bhagirath Shukla
Age:38 years, Occu.:Business,
R/o. Nanded,
- (v) Jamuna Devi W/o. Bhagwandas Shukla,
Age:45 years, Occu.:Business,
R/o. Nanded,
- (vi) Smt. Kanta Ben w/o. Kantilal Lotia,
Age:26 years, Occu. Business,
R/o. Nanded,
- (vii) Rajesh s/o. Kantilal Lotia,
Age:26 years, Occu.:Business,
R/o. Nanded,
- (viii) Smt. Bharti w/o Kantilal Parekh,
Age:29 years, Occu.:Business,
R/o. Nanded,
- (ix) Kum.Rekha d/o Kantilal Lotia,
Age:27 years, Occu. Business,
R/o. Nanded,
- (x) Atul S/o Kantilal Lotia,
Age:25 years, Occu.Business,
R/o. Vajirabad, Nanded,
- (xi) Swati d/o Kantilal Lotia,
Age:18 years, Occu. Business,
R/o. Vajirabad, Nanded

..RESPONDENTS
No.3(i) to (xi)
Orig. Claimants

Shri S.V. Kurundkar, Advocate for Appellant;
Shri S.M. Ganachari, AGP for State.
Shri S.S. Bora, Advocate for Resp. No.3
(i,iii to v, vii, viii)

CORAM : P.R.BORA, J.

DATE : 14th June, 2017.

ORAL JUDGMENT:

1) Heard the learned Counsel for the respective parties. The present appeal is filed taking exception to the Judgment and Award passed by Civil Judge, Senior Division, Nanded on 24th April, 1996 in LAR No.62/1988.

2) The land belonging to Respondent No.1-partnership firm was acquired by the Nanded Municipal Council, as it then was, for the purpose of a primary school. Total 99 Are land was acquired. Section 6 notification in that regard was published on 6th June, 1985. The record does not reflect the date on which final award was passed. However, from the record, it can be gathered that notice under Section 12(2) of the Land Acquisition Act, 1894 (for short, the Act) was issued on 16.11.1987. The Special Land Acquisition Officer had offered the compensation

@ Rs.1.10 ps per sq.ft. Respondent No.1, being dissatisfied with the amount of compensation so offered, filed the Reference application under Section 18 of the Act.

3) Before the Reference Court, the original claimants had claimed compensation @ Rs.75/- per sq.ft. In order to substantiate the claim so preferred, the original claimants had relied upon few earlier judgments in the LARs, more particularly LAR Nos.180/1992 and 135/1988, wherein the Reference Court had awarded the compensation @ Rs.10/- per sq.ft. The claimants had also placed on record few sale-deeds at Exhibits-46,47,48 and 50. No evidence was adduced by the acquiring body. The learned Reference Court, after having assessed the evidence, oral as well as documentary, brought before it, determined the market value of the acquired lands @ Rs.10/- per sq.ft and enhanced the amount of compensation accordingly. Aggrieved by, the appellant - acquiring body has

preferred the present appeal.

4) Shri Kurundkar, learned Counsel appearing for the appellant, assailed the impugned Award on various grounds. The learned Counsel submitted that no sufficient opportunity was granted to the acquiring body to adduce the evidence before the Reference Court. The learned counsel submitted that the Reference Court could not have determined the market value of the subject lands on the basis of some earlier decisions in different LARs, since the lands, which were the subject matter of the said Reference Applications, cannot be held comparable to the subject lands.

. The learned counsel further submitted that, almost all the sale-deeds relied upon by the original claimants were pertaining to small pieces of land, and as such, the considerations received for those small plots could not have been a base for determining the market value of the land admeasuring 99 Are. The learned Counsel submitted that the Special Land Acquisition

Officer, on the contrary, had considered all the circumstances and has appropriately and correctly offered the compensation @ Rs.1.10 ps per sq.ft and no interference could have been done in the amount of compensation so offered. The learned Counsel, therefore, prayed for setting aside the impugned Award and to confirm the market value as was determined by the Special Land Acquisition Officer.

5) Shri Bora, learned Counsel appearing for the original claimant/s supported the impugned award. The learned Counsel submitted that, in fact, the claimants were entitled for some more compensation than awarded by the Reference Court, however, for some reasons beyond their control the claimants did not prefer an appeal seeking enhancement in the amount of compensation. The learned Counsel, inviting my attention to the discussion made by the Reference Court in para 13 onwards of the judgment, submitted that the Reference Court has adequately discussed the

evidence which was placed on record by the original claimants. The learned counsel submitted that the lands, which were the subject matter of the Reference Applications, the judgments whereof were relied upon by the claimants, were adjacent lands, and as such, the Reference Court has rightly relied upon the market value determined in the said Reference Applications. The learned Counsel further submitted that though the sale instances relied upon by the claimants were of small pieces of land, the Reference Court, while determining the market value of the subject lands, has proportionately deducted the amount, and though in all those sale instances the consideration was ranging in between Rs.30 to Rs.40 per sq.ft., the Reference Court has awarded only Rs.10/- per sq.ft. for the subject land. The learned counsel further pointed out that the subject land was non-agricultural land and NA permission was placed on record of the Reference Court and that was also the consideration that the price was

determined by the Reference Court @ Rs.10/- per sq.ft. The learned counsel submitted that no interference is called for in the impugned judgment and award.

6) I have carefully considered the submissions advanced by learned Counsel appearing for the respective parties. I have also perused the impugned Judgment and Award and other material on record. Apparently, I do not see any reason for causing any interference in the Judgment and Award so passed. Perusal of the judgment passed by the Reference Court reveals that the evidence which was brought before the Reference Court has been appropriately analyzed by it and based on the said evidence, the market value has been determined of the subject land. Though it was sought to be canvassed that the lands, which were the subject matter of LAR Nos. 180/1992 and 135/1988, were dissimilar with the subject land, the contention so raised cannot be accepted in view of the discussion made by the

Reference Court. It is revealed that the said lands were adjacent lands. As such, the Reference Court did not seem to have committed any error in determining the market value of the subject land on the basis of the market value determined in the said Reference Applications. Further, though the sale instances relied upon by the claimants were of the small pieces of lands, as has been argued by the learned Counsel for the original claimants, the Reference Court, while determining the market value of the subject land, has made proper deductions while determining the market value of the subject land and though in all the said sale instances, the consideration received was ranging in between Rs.30/- to Rs.40/- per sq ft., the market value of the subject land has been determined by the Reference Court @ Rs.10/- per sq.ft.

7) After having considered the entire material on record, it does not appear to me that the compensation so awarded by the Reference

Court, is on higher side or excessive. In the circumstances, there seems no reason for causing any interference in the impugned judgment and award.

8) In the result, the first appeal is dismissed, however, without any order as to costs. Pending Civil Application, if any, stands disposed of.

(P . R . BORA)
JUDGE

bdv/