

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL STAMP NO. 9288 OF 2012

1. The State of Maharashtra

...APPELLANT

VERSUS

1. Bansi Mahadeo Warngule,
Age: Major, Occu.: Agriculture,
R/o. Ashti, Tq. Ashti, Dist. Beed
2. The Executive Engineer,
Minor Irrigation Division,
Zilla Parishad, Beed.

...RESPONDENTS

(Resp. no.1 Ori. Claimant)

(Resp. No.2 Ori. Resp.)

...

WITH

FIRST APPEAL STAMP NO.9416 OF 2012

1. The State of Maharashtra

...APPELLANT

VERSUS

1. Madhukar Vithal Sahasrabudhe,
Age:Major, Occu. Agricultural
R/o. Ashti, Tq. Ashti, Dist. Beed.
2. The Executive Engineer,
Minor Irrigation Z.P. Division
Beed Tq. & Dist. Beed

...RESPONDENTS

(Resp. no.1 Ori. Claimant)

(Resp. No.2 Ori. Resp.)

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Mr. R.B. Bagul, AGP for the Appellant State;
Mr. A.S. Kakade, Adv. for Resp. No.1.
Mr. A.D. Aghav, Adv. for Resp. No.2.

CORAM: P.R.BORA, J.

DATE :July 26th, 2017

ORAL JUDGMENT:

1. Heard finally with the consent of learned Counsel appearing for the parties.

2. The State has preferred the present appeals aggrieved by the common judgment and award passed by the Court of Ad hoc Additional District Judge at Beed on 11th October, 2005, in Land Acquisition Reference No.689/1999 with Land Acquisition Reference No.693/1999.

3. The lands which are subject matter in the present appeals were acquired for the purpose of construction of Village Tank Pandhari. The notification under Section 4 of the Land Acquisition Act (hereinafter referred to as the Act) was published in that regard in the official gazette on 11th of April, 1996, and the award under Section 11 came to be passed on 16th of February,

1998. The Special Land Acquisition Officer had offered the compensation at the rate of Rs.250/- per Are for the non irrigated land. Dissatisfied with the amount of compensation so offered, the claimants preferred application under Section 18 of the Act and the Reference Court has determined the market value of the acquired lands at the rate of Rs.750/- per Are and has accordingly enhanced the amount of compensation. Aggrieved thereby, the State has preferred the present appeal.

4. Shri Bagul, learned A.G.P., appearing for the appellant State, submitted that the Reference Court has determined the market value of the acquired land relying upon the sale instance pertaining to small pieces of land. Learned A.G.P. further submitted that both the sale instances relied upon by the claimants were of irrigated lands and, as such, considering both the factors; first, that the said lands were irrigated lands and second, that the same were small portions of land, the market value of the subject lands could not have been determined on the basis of the said sale instances. Learned A.G.P. submitted that, on the contrary, the Land Acquisition Officer has

considered the overall circumstances and has fixed the market value of the acquired lands at the rate of Rs.250/- per Are. Learned A.G.P. submitted that no interference, thus, is warranted in the amount of compensation so offered by the Special Land Acquisition Officer. Learned A.G.P., therefore, prayed for setting aside the impugned judgment and award.

5. Shri Kakade, learned Counsel appearing for the respondent i.e. original claimants, supported the impugned judgment and award. Learned Counsel submitted that the Reference Court has not only relied upon the sale instances placed on record by the claimants but has also taken into account the earlier decision rendered in LAR No.690/1999 arising out of the same acquisition proceedings and has accordingly determined the market value of the acquired lands at the rate of Rs.750/- per Are. Learned Counsel submitted that the appeal filed by the State is devoid of any merit and hence prayed for dismissal of the appeals.

6. I have carefully considered the submissions

advanced by the learned Counsel appearing for the respective parties. I have perused the impugned judgment and the other material on record. From the discussion made by the Reference Court, it is evident that two sale instances were relied upon by the claimants; one at Exh.15 and another at Exh.16. The land which was the subject matter of Exh.15 was admeasuring 43 Are and was sold in the year 1994 at the rate of Rs.1233/- per Are whereas the land which was subject matter of Exh.16 was admeasuring 28 Are and was sold at the rate of Rs.1800/- per Are.

7. Even if the contention of learned A.G.P. is accepted that the lands which were subject matter of Exh.15 and Exh.16 were irrigated lands, considering the value received to the lands two years before issuance of notification under Section 4 in the present matter, it does not appear to me that the Reference Court has committed any error in determining the market value of the land at the rate of Rs.750/- per Are. Moreover, as was submitted by the learned Counsel for the claimants, in LAR No.690/1999 arising out of the same acquisition

proceedings, the Court has already determined the market value of the lands involved in the said matter at the rate of Rs.750/- per Are. As I have noted earlier, I do not see any infirmity in the order passed by the Reference Court.

8. The Reference Court has rightly relied upon two sale instances; one at Exh.15 and another at Exh.16. Though it was sought to be contended by the learned A.G.P. that the Reference Court relied upon the sale instances pertaining to small pieces of land, the contention is liable to be rejected at the threshold in view of the fact that the sale instance at Exh.15 pertains to 43 Are of land. In the present matter, the land which is involved in LAR No.689 of 1999 is admeasuring 44 Are land; whereas, the subject matter of LAR No.693/1999 was 63 Are land. In such circumstances, Reference Court has rightly relied upon the said sale instances. For the land involved in the sale instance at Exh.15, consideration was received at the rate of Rs.1233/- per Are in the year 1994 i.e. two years prior to issuance of notification under Section 4 of the Act in the present matter. If the price of the said land is notionally increased by giving increase at 10 per cent of

the value, the value which would have been received for the said land in the year 1996, would have been Rs.1500/-. Considering that the said land was irrigated land, the Reference Court has determined the market value of the acquired land at half of the said rate i.e. at the rate of Rs.750/- per Are. It does not appear to me that the compensation as awarded by the Reference Court is arbitrary or on higher side or there was no basis for awarding such compensation by the Reference Court. Thus, no case is made out by the appellant in both the appeals to cause interference in the impugned Judgments and awards. Hence, the following order:

ORDER

1. Both the appeals are dismissed, however, without any order as to the costs. Pending Civil Applications, if any, stand disposed of.

(P.R.BORA)
JUDGE

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