

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL (ST.) NO. 13212 OF 2014
WITH
CIVIL APPLICATION NO. 7625 OF 2015

THE STATE OF MAHARASHTRA
VERSUS
BALASAHEB FULCHAND AND ANOTHER

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AGP for Applicants : Mr. S.S. Dande

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CORAM : V. K. JADHAV, J.
DATED : 18th APRIL, 2017

PER COURT:-

1. Heard learned A.G.P. for the appellant.
2. This first appeal is directed against the judgment and award dated 12.03.2007 passed by the Adhoc District Judge-3, Beed, in L.A.R. No. 207 of 2006.
3. Brief facts giving rise to the present appeal are as follows:-
 - a. The land belonging to the claimant situated at village Dhumegaon, Tq. Georai, District Beed, came to be acquired by the respondent-State for the purpose of construction of percolation tank at village Dhumegaon, vide notification under Section 4 of the Land Acquisition Act, published on 7.8.1997. The Special Land Acquisition Officer, Beed by award dated 13.9.2000 awarded the compensation at

Rs.310/- per Are.

b. Being dissatisfied by the compensation awarded by the Special Land Acquisition Officer, Beed the respondent/original claimant sought enhancement of compensation on various grounds by filing Land Acquisition Reference petition, as stated above. It has been contended in the said reference petition that the compensation amount awarded by the Special Land Acquisition Officer is meager, inadequate and not as per prevailing market value. According to the claimant, at the relevant time, the rate of land was not less than Rs.1500/- per R. The land acquired is very high fertile quality and fully is irrigated by well and river. The claimant used to take cash crops like ground nut, H4 cotton etc. The claimant therefore, had prayed for enhancement of compensation for the acquired land.

c. The appellant State has strongly resisted the reference petition by filing written statement at Exh.9. It has been contended that the Special Land Acquisition Officer has awarded just and reasonable compensation after visiting and inspecting the acquired land and after considering the fertility of the acquired land, land revenue assessment and comparable sale instances in the locality prevailing on the date of notification under Section 4 of the Act. Therefore, it has been contended that the S.L.A.O. has rightly fixed the market value of the acquired land. The respondent No.2 herein i.e. acquiring body has also filed written

statement at Exh.8 and resisted the claim of the claimant.

d. The claimant has tendered his evidence in the reference petition. The claimant examined his power of attorney Tukaram Rangnath Jambhale (P.W.1) at Exh.16 and tendered in evidence the deed of power of attorney at Exh.17 and certified copy of the sale deed at Exh.18. The appellant-State has not adduced any evidence.

e) The learned District Judge-3, Beed by its impugned judgment and award dated 12.03.2007 awarded the compensation at enhanced rate of Rs.600/- per R. Hence, this first appeal by the State.

4. Learned A.G.P. for the appellants submits that the sale instance relied upon by the claimant for the purpose of enhancement is not comparable sale instance with the acquired land and the reference court has committed error in relying upon the sale instance. The S.L.A.O. after considering all factors i.e. fertility, quality and situation of the land so also all other factors, has awarded just and reasonable compensation.

5. On careful perusal of the judgment and award passed by the Reference Court, I find that the Reference Court in para 26 of the judgment, after considering the sale instances produced on record, has rightly observed that the claimant has proved that the compensation

awarded by the Special Land Acquisition Officer is inadequate and it needs to be enhanced. Therefore, the claimant is entitled to claim enhanced amount of compensation for their land @ Rs.600/- per R. I find that the reference Court has awarded the enhanced compensation at a very meager rate. The impugned judgment is well reasoned judgment. I do not find any fault in the judgment and award passed by the Reference Court. Furthermore, the State has also preferred the appeals after an inordinate delay of more than 6 years.

6. In view of above, I do not find any substance in the aforesaid first appeal and the first appeal is accordingly dismissed at admission stage itself.

7. In view of dismissal of first appeal, pending civil application seeking stay is also disposed of.

(V. K. JADHAV, J.)

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