

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

BENCH AT AURANGABAD.

FIRST APPEAL NO.1240 OF 2017

Sanjay Laxminarayan Pardeshi
and another. ... Appellants.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.A.B.Tele, advocate for the Appellants.
Mr.P.S.Patil, Additional Government Pleader for
the State

...

CORAM : S.V.GANGAPURWALA, J.

Date : 18.09.2017.

PER COURT :

1. The land of the claimants is acquired.
The notification U/s 4 is dated 30.9.1993. Being
aggrieved by the amount of compensation awarded
by the SLAO, the claimants filed Reference U/s 18
of the Land Acquisition Act. The Reference Court
partly allowed the Reference granting

compensation at the rate of Rs.90,000/- per hectare. The claimants have filed the present appeal seeking enhanced compensation.

2. Mr.Tele, learned counsel for the appellants submits that the land of the appellant is a Bagayat land. The SLAO in the award itself has awarded compensation for two wells. It would appear that the land was irrigated by well water, as such there was no impediment for the Reference Court to consider the lands under acquisition as a Bagayat land. According to the learned counsel, the sale deed Exh.32 is executed on 25.1.1994. It is in a close proximity to the notification U/s 4 dated 30.9.1993. The land under sale deed is at village Nipani and land acquisition is from village Shiradhon. They are adjacent villages. The consideration of land under sale deed is Rs.2,31,333/- (Rupees two lac thirty one thousand three hundred thirty three) for one hectare. There was no reason for the Court to deduct 60% of the sale consideration while arriving at the valuation.

3. Mr.Patil, learned Additional Government Pleader submits that the sale deed Exh.32 is post Section 4 notification. In fact, the same could not have been considered. After Section 4 notification, there is always escalation in the prices. In fact, the Reference Court has awarded more compensation amount.

4. With the assistance of learned counsel and the learned Additional Government Pleader, I have gone through the record and the judgment.

5. It appears that in the land of the appellants acquired, two wells existed for which even compensation amount is awarded by the SLAO to the appellants. As the lands were irrigated by well water, the land under acquisition will have to be considered seasonally irrigated land. The Reference Court has considered the lands as Jirayat lands.

6. The land under the sale deed is of a adjacent village. The Reference Court has considered topography of the said land. However,

the land sold under Exh.32 appears to be of a small area and about 4 months after the notification U/s 4 of the Land Acquisition Act. As such deduction has to be made from the amount of consideration shown in the sale deed. I would consider the valuation of Jirayat land at Rs.1,00,000/- (Rupees one lac). Considering the land under acquisition to be seasonally irrigated land, the valuation would be one and half time. As such the appellants would be entitled for compensation at Rs.1,50,000/- (Rupees one lac fifty thousand) per hectare.

7. In light of the above, the order of the Reference Court is modified to the extent that Respondents shall pay claimants compensation at Rs.1,50,000/- (Rupees one lac fifty thousand) per hectare. Save and except the aforesaid modification, rest of the order is maintained as it is. The appeal is partly allowed. No costs.

(S.V.GANGAPURWALA, J.)

