

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

**FIRST APPEAL NO.1454 OF 2014  
( With C.A.No.651/2015)**

Maharashtra State Electricity Board  
(Now) Maharashtra State Electricity  
Distribution Co. Ltd. Aurangabad  
through its Executive Engineer

**...APPELLANT**  
(Ori. Resp. No.2)

**VERSUS**

1. S.B. @ Gulabrao Balbhimrao  
Deshmukh, Age 66 years  
Occupation Agriculture,  
R/o. "Gajendra" 118,  
Shreyanagar, Aurangabad (Ori. Claimant)
2. Rajeshwar S/o. Satishrao  
Deshmukh, Age: 44 years  
Occu.: Agriculturist,  
R/o. As above. (Ori. Claimant)
3. The State of Maharashtra, (Ori. R.No.1)  
Through Special Land Acquisition  
Officer, Special Unit, Aurangabad

**...RESPONDENTS**

...

Mr. S.M. Godsay, Adv. for appellant;  
Mr. A.P. Bhandari, Adv. for Respondent Nos. 1 & 2  
Mr. S.M. Ganachari, AGP for Respondent No.3

...

**WITH**

**CROSS OBJECTION STAMP NO.20795 OF 2016  
IN  
FIRST APPEAL NO.1454 OF 2014**

1. S.B. @ Gulabrao Balbhimrao  
Deshmukh, Age 70 years

Occupation Agriculture,  
R/o. "Gajendra" 118,  
Shreyanagar, Aurangabad

2. Rajeshwar S/o. Satishrao  
Deshmukh, Age: 44 years  
Occu.: Agriculture,  
R/o. "Gajendra" 118,  
Shreyanagar, Aurangabad

**...PETITIONERS**  
(Orig. Claimants)

**VERSUS**

1. Maharashtra State Electricity Board  
(Now) Maharashtra State Electricity  
Distribution Co. Ltd. Aurangabad  
through its Executive Engineer
2. The State of Maharashtra,  
Through Special land Acquisition Officer,  
Special Unit

**...RESPONDENTS**

...  
Mr. A.P. Bhandari, Adv. for appellants;  
Mr. S.M. Godsay, Adv. for Respondent No. 1.  
Mr. S.M. Ganachari, AGP for Respondent No.2

...

**CORAM: P.R. BORA, J.**

**DATE : August 2nd, 2017**

**ORAL JUDGMENT:**

1. The appellant has filed the present appeal challenging the judgment and award passed by the Court of Civil Judge, Senior Division, Aurangabad, in Land Acquisition Reference no.309/2002 decided on 21<sup>st</sup> of March, 2014. The original claimant has also filed Cross Objection seeking

enhancement in the amount of compensation as awarded by the Reference Court in the aforesaid Reference Application.

2. Heard Shri Godsay, learned Counsel appearing for the appellant and Shri Anand Bhandari, learned Counsel appearing for the original claimants and the Cross Objectors.

3. The property which is involved in the present matter was acquired for erecting 33 KVA Sub Station by the appellant Board ( now, a Company). Notification under Section 4 of the Land Acquisition Act, 1894, ( hereinafter referred to as the Act) in that regard was published on 10th of May, 1999, and after having completed the procedure, award under Section 11 of the Act was passed on 10th of July, 2002. The Special Land Acquisition Officer had offered the compensation at the rate of Rs.3097/- per square meter by applying Belting system. Dissatisfied with the amount of compensation so offered, the original claimant filed Reference Application under Section 18 of the Act and the Reference Court, after having adjudicated the said Reference, enhanced the compensation by determining the market value of the acquired property at the rate of Rs.4,555/- and enhanced the amount of compensation accordingly. Aggrieved thereby, the Electricity Company has preferred the

present appeal; so also, the claimant has preferred Cross Objection.

4. Shri Godsay, learned Counsel appearing for the appellant Company, submitted that the Tribunal has grossly erred in holding that the Special Land Acquisition Officer had wrongly applied the Belting system. Learned Counsel submitted that the Belting system is the approved mode of assessment of compensation and nothing wrong was committed by the Special Land Acquisition Officer in applying the said method. Learned Counsel further submitted that the Ready Reckoner rate also could not have been the base for assessing or determining the market value of the acquired land. Learned Counsel submitted that the Special Land Acquisition Officer had correctly determined the amount of compensation and no interference was required in the amount of compensation so offered. Learned Counsel, therefore, prayed for setting aside the impugned judgment and award and to confirm the amount of compensation as was offered by the Special Land Acquisition Officer.

5. Shri Bhandari, learned Counsel appearing for the original claimants submitted that the Tribunal has failed in

appreciating that in the acquired property, there were Pucca constructions and hence some more compensation was required to be awarded. Learned Counsel further submitted that the claimants have also examined the valuer to bring on record the real market value of the property before the Court, however, the said evidence has also been not appreciated by the Reference Court.

6. Learned Counsel further submitted that in the present appeal, the appellant had sought permission to adduce additional evidence and intends to place on record sale instances of the comparable lands which evince that the market value of the acquired land could not have been determined at much higher side than determined by the Reference Court. Learned Counsel submitted that either this Court may consider all the sale instances in the present appeal or if found appropriate, may remit the matter back giving opportunity to the cross objector to adduce the said evidence by way of additional evidence before the Reference Court.

7. I have carefully considered the submissions advanced by the learned Counsel appearing for the parties. I have perused the impugned judgment and award and other

material placed on record. Perusal of the impugned judgment reveals that the Reference Court has disapproved the adoption of Belting system by the Special Land Acquisition Officer for determining the amount of compensation. The discussion made by the Reference Court shows that after having observed that the entire property was one unit, no belting system could have been adopted by the Special Land Acquisition Officer. I do not see any error in the view taken by the Reference Court. In view of the fact that the subject property is entirely one unit having a large big frontage, the belting system could not have been adopted for determining its market value.

8. In the case of Trishala Jain V. State of Uttaranchal (AIR 2011 SC 2458), the Honourable Apex Court upheld the decision of the Reference Court of setting aside the belting system adopted by the Land Acquisition Officer while determining the amount of compensation. In the said matter, the Special Land Acquisition Officer while giving its award had applied the belting system and categorizing the land into three different categories, awarded compensation accordingly. However, the Reference court observing that the land as a whole was similarly placed and was surrounded by developed areas and was to be used for one purpose i.e. construction of

Government Polytechnic Institute, held that, therefore, there was no question of applying the belting system. The Reference Court set aside the belting system and awarded uniform compensation to all the claimants. The said finding of the Reference Court was upheld by the High Court and in the aforesaid judgment, the Honourable Apex Court also confirmed the same.

9. The facts in the present case are similar to the facts of the aforesaid case before the Honourable Apex Court. In the present matter also, the Special Land Acquisition Officer applied the belting system while declaring award under Section 11 of the Act, and the Reference Court has disapproved the application of belting system observing that the property is entirely one property and has awarded uniform compensation for the whole property at one rate.

10. In view of the above, I do not find any substance in the contention raised on behalf of the appellant that the Reference Court committed error in setting aside the belting system applied by the Special Land Acquisition Officer. Reference Court has rightly awarded uniform compensation for whole of the property at one rate.

11. The another objection as has been raised by the appellant is that the Reference Court has erred in determining the amount of compensation on the basis of Ready Reckoner rates. Shri Godsay, learned Counsel for the appellant, submitted that the Supreme Court as well as this Court has disapproved the method of awarding the compensation on the basis of Ready Reckoner rates. However, the objection so raised also deserves to be turned down. Admittedly, no evidence was adduced by the appellant before the Reference Court so as to bring on record the prevailing market value of the acquired property. The appellant did not bring on record any evidence to show that the Ready Reckoner rates were not commensurating with the existing market value of the subject property. In absence of any contrary evidence on record, it does not appear to me that any fault can be found on the part of the Reference Court in determining the market value of the subject property on the basis of Ready Reckoner rates applicable to the area wherein the subject property is situated.

12. After having considered the entire material on record, it does not appear to me that any case is made out by the appellant to cause interference in the amount of

compensation as awarded by the Reference Court. The Appeal filed by the appellant is devoid of any substance and deserves to be dismissed.

31. The respondents have filed Civil Application seeking leave to adduce additional evidence by invoking the provisions under Section 51-A of the Land Acquisition Act, 1894. I am, however, not inclined to allow the said application for the reason that before the Reference Court the compensation was claimed by the respondents - claimants on the basis of Ready Reckoner Rates. I have perused the evidence of claimant viz; S..B.@ Gulabrao Balbhimrao Deshmukh adduced before the Reference Court. In his evidence before the Court, the claimant has specifically claimed the compensation of the acquired property at the rate of Rs.4,555/- per square meter. In the cross examination also, the claimant has admitted that he has claimed the compensation on the basis of Ready Reckoner rates. The Reference Court has awarded the compensation at the rate as was claimed by the claimants. In the circumstances, the request now made by the claimants that they may be permitted to adduce additional evidence, since the compensation awarded is inadequate, cannot be accepted. For the same reason, the Cross Objection filed by the claimants

also deserves to be dismissed. Since the Reference Court has awarded the compensation at the rate as was claimed by the claimants, there appears no justification in filing the cross objection by the claimants.

14. For the reasons stated above, the following order is passed:

### **ORDER**

1. First Appeal No.1454 of 2014 is dismissed with costs.
2. Civil Application No.651/2015 as well as X-Objection Stamp No.20795/2016 stand dismissed.
3. It would be open for the original claimants to withdraw the amount deposited by the appellant in this Court after expiry of period of six weeks with interest accrued thereon.
4. Pending Civil Applications, if any, stand disposed of.

(P.R.BORA)  
JUDGE

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AGP/1454-14fa