

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.3878 OF 2016

Municipal Corporation, Aurangabad
Through Municipal Commissioner,

= **APPELLANT**

VERSUS

1. Ramrao s/o. Kisanrao Adhe
Age: Major, Occu: Pensioner,

(Deleted as per Court order
dated 20.3.2017)

2. Umakant s/o. Ramrao Adhe,
Age: Major, Occu: Pensioner,

3. Jayashree D/o. Ramrao Adhe,
Age: Major, Occu. Pensioner,

(Deleted as per Court order dated
26/09/2016)

All R/o. Paithan Gate, Nutan Colony,
Aurangabad

4. The State of Maharashtra
Through its Land Acquisition Officer,
Collector Office, Aurangabad

= **RESPONDENTS**

Mr. Sambhaji S. Tope, Advocate for Appellant;
Mr. R.B. Bagul, A.G.P. for Respondent State;
Mr. Milind M. Joshi, Advocate for Respondent Nos. 1
& 2.

CORAM : P.R.BORA, J.

DATE : 18th July,2017.

ORAL JUDGMENT:

1. With the consent of the learned Counsel appearing for the parties, heard finally.

2. The appellant Corporation has filed the present appeal against the judgment and award dated 2.11.2015 passed in LAR No.16/2011 by the Court of Civil Judge, Senior Division, at Aurangabad.

3. The property, which is the subject matter of the present appeal, was partly constructed premises admeasuring 130.80 sq.mts and was acquired for widening of the road from Paithan Gate to Kranti Chowk. The notification under Section 126(4) of the Maharashtra Regional Town Planning Act, 1966 (hereinafter referred to as the MRTP Act) read with Section 6 of the Land Acquisition Act was published in the official gazette on 7th of March, 1991, and award under Section 11 came to be passed on 25th February, 1994. The Special Land Acquisition Officer had offered the compensation at the rate of Rs.1,000/- per square meter. Dissatisfied with the amount of compensation so offered, the respondents i.e. the original claimants preferred Reference Application under Section 18(1) of the Act and the Learned Reference Court, after having adjudicated the said Reference Application, enhanced the amount of compensation by Rs.700/- per square meter i.e. by determining the market

value of the subject land at the rate of Rs.1700/- per square meter. Aggrieved thereby, the Corporation has filed the present appeal.

4. Shri Tope, learned Counsel appearing for the appellant Corporation, submitted that the Reference Court has unreasonably enhanced the amount of compensation though there was no sufficient evidence therefor. Learned Counsel appearing for the respondents / original claimants has supported the impugned judgment. Learned Counsel submitted that the claimants have already received the total amount of compensation as has been enhanced by the Reference Court. Learned Counsel submitted that the Reference Court has, in fact, taken a very conservative view while enhancing the amount of compensation and no interference is required to be caused in the judgment and award so passed.

5. On perusal of the impugned judgment, it is apparently revealed that the Reference Court has determined the market value of the acquired property on a very conservative side though there were instances placed on record by the claimants wherein the consideration was received to the tune of Rs.3,000/- to Rs.4,000/- per square meter. The Reference Court has determined the market value of the subject property at the rate of Rs.1700/- per square meter.

6. After having perused the impugned judgment and the evidence on record, it does not appear to me that the Reference Court has unreasonably enhanced the amount of compensation or has determined the market value of the subject property on higher side. No interference is, therefore, required in the judgment and award so passed. The Appeal being devoid of substance, deserves to be dismissed and is, accordingly, dismissed, however, without any order as to the costs.

(P.R.BORA)
JUDGE

AGP/