

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

FIRST APPEAL NO.:3461 OF 2016

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
PRAMOD NAGAPPA (DIED) THROUGH LR.S
PADMAVATI W/O PRAMOD PUNJE AND OTHERS

Mr.A.M.Phule, AGP for Appellants.
Mr. Subhash Chillarge, Advocate for Respondent Nos.1-A and 1-B.

WITH

FIRST APPEAL NO.:3462 OF 2016

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
NAGAPPA SATAPPA PUNJE, DIED THR. LR.s
PRAMOD NAGAPPA PUNJE (DIED) THROUGH LR.S
PADMAWATI W/O PRAMOD PUNJA AND ANOTHER

Mr.A.M.Phule, AGP for Appellants.
Mr. Subhash Chillarge, Advocate for the Respondent.

CORAM : **V. K. JADHAV, J.**
DATE : 14th March, 2017.

ORDER:

. Heard finally with consent at admission stage.

2 Being aggrieved by the common judgment and award passed by the learned Civil Judge Senior Division, Nilanga dated 8th June, 2010 in LAR No.808 of 1998 and other connected reference petitions, the State has preferred these two appeals against the

judgment and awarded passed by the Reference Court in LAR No.809 of 1998 and LAR No.810 of 1998 respectively.

3 Brief facts giving rise to the present two appeals are as follows:

- i) The Claimants were the owners in possession of the acquired lands situated at village Sarwadi, Taluka Nilanga, District Latur. Those lands came to be acquired by the Government for rehabilitation of earthquake affected persons belong to village Sarwadi. The notification under Section 4 of the Land Acquisition Act was published on 28th April, 1994. The Special Land Acquisition Officer has determined the compensation at the rate of Rs.340/- per Are. Being dissatisfied with the inadequate compensation awarded by the Special Land Acquisition Officer, the Claimants preferred LAR No.808 of 1998 and other connected reference petitions. It has been contended in the reference petitions that the compensation awarded by the Special Land Acquisition Officer is highly inadequate and the acquired lands are situated

within the vicinity of Killari Sugar Factory. The acquired lands were suitable for the purpose of construction of house for the earthquake affected persons. It has got non-agricultural potentiality. Though the Claimants have claimed the compensation at the rate Rs.5/- to Rs.7/- per square feet, the Special Land Acquisition Officer has awarded the compensation by treating the lands as agricultural land. Further, the Special Land Acquisition Officer has also not considered the prevailing market price of the agricultural land in the area.

- ii) The Appellant / State has strongly resisted the reference petitions by filing the written statement. It has been contended that the Special Land Acquisition Officer after verifying the potentiality and fertility, has awarded the adequate compensation at the rate of Rs.340/- per Are to the Claimants. It has been contended that the acquired lands were not having any non-agricultural potentiality.

iii) The Claimants have adduced oral and documentary evidence in support of their contentions. The learned Civil Judge Senior Division, Nilanga vide its impugned judgment and award dated 8th June, 2010 enhanced the compensation of the acquired lands at the rate of Rs.975/- per Are. Being aggrieved by the same, the State has approached to this Court by filing the present appeals.

4 The learned AGP submits that the Reference Court has discarded the sale instances Exhibits 37 and 38 respectively. However, the learned Judge of the Reference Court has considered the sale instance Exhibit – 36 without any basis. Further, the Reference Court has not considered the sale instances brought by the State marked as Exhibits 48 and 49 respectively. Consequently, the Reference Court has come to the wrong conclusion about the prevailing market price of the acquired lands in the area.

5 The learned counsel for Respondents / original Claimants submits that the Reference Court has relied upon sale instance Exhibit – 36 on the ground that the same is nearest in point

of time and also nearer to the acquired lands. It has come in the cross-examination of Claimant Madhukar that the distance between old village Sarwade and newly rehabilitated village Sarwadi is about 1 and half kilometer and newly established village Sarwadi is towards east side at the distance of half to one and half kilometer. On the basis of these admissions, the Reference Court has observed that the acquired lands are at a distance of more than 500 meter from old village Sarwadi. The learned Judge of the Reference Court has rightly discarded the sale instances brought by the State Exhibits 48 and 49 respectively. Those sale instances are at lower side and do not reflect the market price of the agricultural land in the said area. The learned counsel submits that the Reference Court has awarded just and reasonable compensation at the enhanced rate of Rs.975/- per Are. No interference is required. There is no substance in the appeals and both the appeals are liable to be dismissed.

6 On careful perusal of the impugned judgment and award, it appears that in paras 11 and 12 of the judgment the learned Judge of the Reference Court has made elaborate discussion on the sale instances placed on record by the Claimants

as well as the State. So far as sale instance Exhibit – 36 is concerned, one Sheshrao Ingale purchased the land Gat No.127 admeasuring 41 Are on 8th March, 1994 for the consideration of Rs.40,000/-. The notification under Section 4 of the Land Acquisition Act in respect of the acquired lands was published on 28th April, 1994. Furthermore, the Appellant / State has given an opportunity to Claimant Madhukar to state about the distance between old village Sarwadi and the newly rehabilitated village Sarwadi. The learned Judge of the Reference Court has therefore, rightly observed that sale instance Exhibit – 36 is nearest in point of time and also nearer to the acquired lands. Further, the Reference Court has dealt with the judgment relied upon by the Claimant in LAR No.825 of 1998 below Exhibit – 41. The learned Judge of the Reference Court has rightly distinguished the said judgment and held that the judgment in LAR No.825 of 1998 is not good guide for determining the market price of the acquired lands. The Reference Court has thus, observed that sale instance Exhibit – 36 is the genuine and comparative sale instance for determining the market price of the acquired lands. The Reference Court relying upon the sale instance Exhibit – 36 awarded the compensation at the

enhanced rate of Rs.975/- per Are, which is quite reasonable. I do not find any merit in the appeals. No interference is required in the impugned judgment and award. Hence, the following order:

ORDER

- I. Both the appeals, are hereby dismissed with costs.
- II. Both the appeals are accordingly disposed of.

[V. K. JADHAV, J.]

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