

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL (ST.) NO. 19247 OF 2015
WITH
CIVIL APPLICATION NO. 9537 OF 2015

THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
MADHAV PATLOBA PHAD

...
AGP for Applicants : Mr. C.V. Dharurkar

.....

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

PER COURT:-

1. Heard learned A.G.P. for the appellants.
2. This first appeal is directed against the judgment and award dated 28.1.2010 passed by the District Judge-2, Ambajogai, District Beed in L.A.R. No. 92 of 2006.
3. Brief facts giving rise to the present appeal are as follows:-
 - a. The land belonging to the claimant situated at village Dharmapuri, Tq. Parali, District Beed, came to be acquired by the respondent-State for the purpose of construction of village tank at Dharmapuri, vide notifications under Section 4 and 6 of the Land Acquisition Act, published on 25.5.2000 and 14.8.2003, respectively. The Special Land Acquisition Officer, Beed by award dated 16.9.2004 awarded the

compensation at Rs.600/- 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.2000/- per R. The land acquired is situated at a distance of 10 Kms from Taluka place Parali, which is on a developed high way, having facilities of school, college and market. The claimant therefore, had prayed for enhancement of compensation for the acquired land.

c. The appellants State and the authorities have strongly resisted the reference petition by filing written statement at Exh.8. It has been contended that the Special Land Acquisition Officer has awarded just and reasonable compensation after holding full fledged inquiry and considering the market price prevailing in the vicinity at the time of notification under Section 4 of the Land Acquisition Act.

d. The claimant has tendered his evidence in the reference petition. The claimant filed affidavit of one Maroti Vishwanath Phad at Exh.10 in

L.A.R. No. 91 of 2006. The said witness has proved three sale deeds at Exh.13 to 15 in L.A.R. No. 91 of 2006. He has also proved certified copy of award at Exh.16 and certified copy of notice under Section 12(2) of the Act at Exh.17. The applicant has also filed on record 7x12 extract of Gat No. 2089. The appellants-State has not adduced any evidence.

e) The learned District Judge-1, Ambejogai by its impugned judgment and award dated 28.1.2010 awarded the compensation at enhanced rate of Rs.1300/- per R. Hence, this first appeal by the State.

4. Learned A.G.P. for the appellants submits that the sale instances relied upon for the purpose of enhancement are not properly appreciated qua the nature, proximity, location, quality, classification, potentiality of the land property in question. Learned A.G.P. submits that the reference court has wrongly placed reliance on the evidence adduced by the claimant and his witness and ignored the defence/evidence of the appellants. Learned A.G.P. further submits that the compensation awarded by the S.L.A.O. is just and adequate compensation.

5. On careful perusal of the judgment and award passed by the Reference Court, I find that the Reference Court in para 14 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.1300/- 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 5 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.)

rlj/