

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 871 OF 2017

GUNJABAI LALU RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Appellant : Mr. S.S. Halkude
AGP for Respondents : Mr. A. M. Phule.
.....

CORAM : V. K. JADHAV, J.
DATED : 17th JULY, 2017

PER COURT:-

1. By consent of parties, heard finally at admission stage.
2. Being aggrieved by the judgment and award dated 2.5.2012 passed by the learned Joint C.J.S.D. Udgir in L.A.R. No. 493 of 2010, the original claimant has preferred this appeal.
3. Brief facts giving rise to the present appeal are as follows:-
 - a) The respondent State has acquired the agricultural land owned and possessed by the claimant for the purpose of construction of village tank situated at village Chondi. Section 4 notification was published on 3.5.2001. The S.L.A.O. has granted the compensation for the acquired land at the rate of Rs.444/- per R. Being dissatisfied with the inadequate compensation, the appellant claimant has

preferred L.A.R. No. 493 of 2010 and claimed the compensation at the rate of Rs.2500/- per R i.e. Rs.1,00,000/- per acre. It has been contended in the said reference petition that the S.L.A.O. has not considered the prevailing market price and awarded inadequate amount of compensation for the acquired land. It has also been contended that village Chondi is situated at 20 kilometers from Taluka place Udgir and the lands of village Chondi come under the command area of sugar factories at Nalegaon and Priyadarshini, Tondar. The acquired land is most fertile and black rick cotton soil and the appellant claimant was raising double crop in the acquired land.

b) The respondent State has strongly resisted the reference petition by filing written statement. It has been contended that the acquired land is medium quality land and claimant was taking Kharip crops only. The S.L.A.O. after making inquiry and after considering the quality, quantity and fertility of the acquired land as well as the sale instances as on the material date, awarded just and reasonable compensation.

c) The appellant-claimant has adduced evidence in support of her contentions. The respondent State has not adduced any evidence. The reference court has partly allowed the claim petition and

awarded the compensation at the enhanced rate of Rs.1500/- per R i.e. Rs.60,000/- per acre. Hence, this appeal.

4. Learned counsel for the appellant claimant submits that the appellant claimant has mainly placed reliance on the sale instance Exh.14. The said sale deed dated 25.3.1998 is in respect of land at village Chincholi, admeasuring 20 R out of survey No.16. By way of said sale deed, the land was sold for consideration of Rs.50,000/- i.e. at the rate of Rs.2500/- per R. Learned counsel submits that the said village Chincholi and village Chondi where the land under acquisition is situated, are adjacent to each other. The reference court has considered the increase of 10% for three years, as the land under sale instance Exh.14 was sold in the year 1998 and Section 4 notification was published in the year 2001 in respect of acquired land. Further, the reference Court has also deducted 30% of the amount from consideration amount of the sale instance Exh.14 for the reason that the land under sale instance is small piece of land. The reference court, after carrying out the said deduction, has considered the market rate at Rs.2275/- per R. However, for no reason again carried out the deduction and awarded compensation at the rate of Rs.1500/- per R.

5. Learned A.G.P. appearing for the respondent State submits

that the land under sale instance Exh.14 is small piece of land and as such said sale instance cannot be taken as comparable sale instance for deciding the market value in respect of the acquired land. Learned A.G.P. submits that on perusal of sale instance Exh.14, it appears that the land standing in the name of father of purchaser is towards northern side of the land under sale instance and as such the purchaser paid more price to purchase the land under sale instance, compared to the market price. Though the reference court has not specifically observed, however, awarded just and reasonable compensation at the rate of Rs.1500/- per R. There is no merit in the appeal and the appeal is thus liable to be dismissed.

6. On careful perusal of pleadings, evidence and the judgment and award passed by the reference court, it appears that though the appellant claimant has deposed before the reference court that village Chincholi is adjacent to village Chondi, respondent State has not challenged the said evidence. Further, respondent State has also not adduced any evidence in rebuttal. On perusal of the sale instance Exh.14, it appears that the land under sale instance was of 20 R land sold in the year 1998 for consideration of Rs.50,000/- i.e. at the rate of Rs.2500/- per R. Though the reference court has increased 10% per year, also deducted 30% of the amount from consideration of the said Exh.14 on the count that it pertains to small

portion of land, on careful perusal of sale instance Exh.14, it also appears that the land of the father of purchaser is situated towards northern side of the land under sale instance. Though the same is not clearly mentioned in the sale instance Exh.14, however, on careful perusal of boundaries, the same is reflected. Thus, the purchaser might have paid more price than the market price as he was getting the land adjacent to his own land. In view of the same, I do not find any fault in the impugned judgment and award passed by the Reference Court. It also appears that the agricultural land owned and possessed by the appellant admeasuring 1 H 27 R came to be acquired for the purpose of construction of the said water tank and the appellant claimant is relying on the sale instance on small piece of land admeasuring 20 R only. It is not clear whether the sale transactions were not available from village Chondi. In view of the same, I do not find any fault in the judgment and award passed by the Reference court. There is no merit in the appeal. Hence, I proceed to pass the following order:-

O R D E R

- I. The appeal is hereby dismissed. No costs.
- II. The appeal is accordingly disposed of.

(V. K. JADHAV, J.)