

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL (ST.) NO. 24706 OF 2013
WITH
CIVIL APPLICATION NO. 12968 OF 2013

THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
SHIVAJI NANABHAU SURWASE

WITH
FIRST APPEAL (ST.) NO. 24748 OF 2013
WITH
CIVIL APPLICATION NO. 12970 OF 2013

THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
VANDANA ASHARAM SURVASE

WITH
FIRST APPEAL (ST.) NO. 24743 OF 2013
WITH
CIVIL APPLICATION NO. 12972 OF 2013

THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
MUKUND NANABHAU SURVASE (DIED) THROUGH L.RS.
JEEVAN AND OTHERS

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AGP for Applicants : Mr. S.P. Sonpawale

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

PER COURT:-

1. Heard learned A.G.P. for the appellants.
2. All these appeals are directed against the common judgment and award dated 7.12.2009 passed by the IIInd Joint Civil Judge, Senior Division, Osmanabad in L.A.R. Nos. 308 of 2003, 309 of 2003 and 310

of 2003.

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

a. The lands belonging to the claimants situated at village Adsulwadi, Tq. Kallam, District Osmanabad, including the mango trees came to be acquired by the respondent-State for the purpose of construction of percolation tank at Adsulwadi, Tq. Kallam, vide notification under Section 4 and 6 of the Land Acquisition Act, published on 15.4.1999 and 14.4.2000 respectively. The Special Land Acquisition Officer, Osmanabad by award dated 12.2.2001 awarded the compensation at Rs.36,000/- per hectare corresponds to Rs.14400/- per acre.

b. Being dissatisfied by the compensation awarded by the Special Land Acquisition Officer, Osmanabad the respondents/original claimants sought enhancement of compensation on various grounds by filing Land Acquisition Reference petitions, as stated above. It has been contended in the said reference petitions that the Special Land Acquisition Officer did not consider the quality and fertility of the acquired lands and thus awarded the compensation at lower side. It has also been contended that the acquired lands had facility of irrigation of well water. The respondents claimants were taking crops in two seasons and also taking cash crops in the acquired lands of well water.

According to the claimants, at the relevant time, the market price of the acquired lands in question was Rs.80,000/- per acre. According to them, there are small land holders at village Adsulwadi and nobody is willing to sell the land. The prices of the lands are increasing day by day. However, all these facts have not been considered by the Special Land Acquisition Officer and awarded inadequate compensation.

c. The appellants State and the authorities have strongly resisted the reference petitions by filing written statements. It has been contended that the Special Land Acquisition Officer has awarded just and reasonable compensation after holding due 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 claimants have tendered their evidence in the reference petitions. The claimants produced copies of 7x12 extracts of their respective lands at Exh.34 as well as the electricity bill at Exh.35. The copy of award Exh.23, "E" statement Exh.24 and certified copies of sale instance dated 31.10.1991 at Exh.25. In addition to that, the claimants have also produced on record the valuation report of fruit bearing trees at Exh.22. The appellants-State has not adduced any evidence. .

e) The learned IInd Joint Civil Judge, Senior Division, Osmanabad by its impugned judgment and award dated 7.12.2009 awarded the

compensation at the enhanced rate of Rs.25,000/- per acre in all reference petitions. The learned Judge of the Reference court has dismissed the claim of the claimants in respect of mango trees. Hence, these first appeals.

4. Learned A.G.P. for the appellants submits that the Reference Court has erroneously relied upon the sale instance dated 31.10.1991 at Exh.25 and held that the acquired land is valued of Rs.25,000/- per acre when there is no other evidence placed by the claimants on record. The sale instance at Exh.25 is in respect of irrigated land and having approach road and river near the adjacent land. Learned A.G.P. further submits that the compensation awarded by 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 31 of the judgment has rightly observed that the claimants have proved that the compensation awarded by the Special Land Acquisition Officer is inadequate and it does not reflect the market price. Therefore the claimants are entitled to claim enhanced amount of compensation for their land @ Rs.25,000/- per acre. 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 3 years.

6. In view of above, I do not find any substance in the aforesaid first appeals and all the first appeals are accordingly dismissed at the admission stage itself.

7. In view of dismissal of first appeals, pending civil applications seeking stay are also disposed of.

(V. K. JADHAV, J.)

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