

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

FIRST APPEAL NO. 2192 OF 2015

THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
DHANRAJ GANGARAM NANDGAVE AND OTHERS

...
AGP for Appellants : Mr.S.P.Sonpawle.
...

CORAM : **V. K. JADHAV, J.**
DATE : 28th February, 2017.

ORDER:

. Though the notice of final disposal issued and served upon the Respondents / Claimants, none appears for them.

2 Being aggrieved by the common judgment and award passed by the learned 2nd Joint Civil Judge Senior Division, Latur dated 17th March, 2007 in LAR No.264 of 2002 alongwith other connected matters, the Respondent / State has preferred this appeal to the extent of LAR No.264 of 2002 (Old No.291 of 1998).

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

- i) The agricultural lands owned and possessed by the Respondents / Claimants situated at village Rachannawadi, Taluka Chakur, District Latur

came to be acquired by the Government for the purpose of construction of the irrigation tank Bothi Canal at Rachannawadi. Notification under Section 4 of the Land Acquisition Act was published on 22nd September, 1994. The Claimants have demanded the compensation at the rate of Rs.60,000/- per Acre. However, the Special Land Acquisition Officer has awarded the compensation at the rate of Rs.10,000/- per Acre. Being aggrieved by the inadequate compensation awarded by the Special Land Acquisition Officer, the Claimants preferred LAR No.264 of 2002 (Old No.291 of 1998). It has contended that the acquired lands are the fertile and quality lands and the Claimants used to take kharip and rubbi crops in it. It has contended that the Special Land Acquisition Officer has not considered the market price of the agricultural lands in the said area and awarded the meager amount of compensation.

- ii) The Appellant / State has strongly resisted the reference petition by filing the written statement.

It has contended that the acquired lands are of inferior quality. The Special Land Acquisition Officer has awarded the compensation after verifying the sale transaction from the said area. The Special Land Acquisition Officer has awarded the compensation as per the market rate prevailing in the said area. It has also contended that the Claimants have claimed the compensation at the exorbitant rate.

- iii) The Respondents / Claimants adduced oral and documentary evidence in support of their contentions. However, the State has not adduced any evidence. The learned 2nd Joint Civil Judge Senior Division, Latur vide its impugned judgment and award dated 17th March, 2007 awarded the enhanced compensation at Rs.60,000/- per Acre. Hence, this appeal.

4 The learned AGP submits that the Reference Court has erroneously placed reliance on the sale-deed Exhibit – 11, which is from the different village. It further appears from the contents of the

sale-deed Exhibit – 11 that the land under the said sale instance sold by the son to his father. Though the said sale instance is prior to the notification under Section 4 of the acquired land, in the circumstances as stated above, the said sale instance does not reflect the true market price of the agricultural land from the said area.

5 On careful perusal of the contents of sale-deed Exhibit – 11, it appears that the said sale instance is from the same village Rachannawadi and the son has sold the said land to his father for a valuable consideration. The Reference Court has erroneously observed that the land under the sale instance is from village Shelgaon and not from village Rachannawadi where the acquired lands are situated. However, on careful perusal of sale instance Exhibit – 11, it appears that the land under the sale instance is from the same village Rachannawadi where the acquired lands are situated. It thus, appears that the Reference Court has rightly placed reliance on the said sale instance and awarded the compensation at the enhanced rate of Rs.60,000/- per Acre i.e. Rs.1250/- per Are.

6 Witness Maroti for the Claimants has deposed that the acquired lands are the black, rich cotton soil having depth of 30 to 40 feet and the Claimants used to take two crops of rubbi and kharip

every year. He has further given details of the crops being taken by the Claimants in the acquired lands. He has further deposed that at the relevant time the market price of the acquired lands was more than Rs.60,000/- per Acre. After referring the contents of sale instance Exhibit – 11, he has deposed that on 5th February, 1993, one Dnyanoba Patil had executed the sale-deed of the land admeasuring 81 Ares in favour of Pundlik Gopal Patil for the total consideration of Rs.1,20,000/- out of Survey No.60. He has further explained that the lands of the Claimants and the land under sale transaction is having the same quality, potentiality and its market price is also the same. He has further deposed that there are only three survey numbers in between the acquired lands and the land under the sale instance. He was subjected to cross-examination at length. However, the State has not challenged the distance between the acquired lands and the land under the sale instance as deposed by the said witness. Further, the Appellant / State has also not adduced any evidence to point out that the true market price of the land is not reflecting from the contents of sale instance Exhibit – 11.

7 In view of the above discussion, I do not find any substance in the appeal. Hence, the following order:

ORDER

- I. The appeal, is hereby dismissed. No costs.
- II. The appeal is accordingly disposed of.
- III. Pending civil application stands disposed of.

[V. K. JADHAV, J.]

ndm