

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

7 FIRST APPEAL NO.2521 OF 2016

THE EXECUTIVE ENGINEER LATUR MINOR IRRIGATION
LATUR
VERSUS
PANDHARINATH GANGWARAM MUDNE AND ANR

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Advocate for Appellant : Gangwal Madhubala B.
Ms. Swati P More (Nade), Adv. For R/1.
Mr.SP Sonpawale, AGP for Respondent:2

CORAM : P.R.BORA, J.

DATE : 6th June, 2017.

PER COURT :

1) Heard finally, by consent, at the stage of admission.

2) The present appeal is filed against the Judgment and Award dated 23rd June, 2009 passed by 4th Joint Civil Judge, Junior Division, Latur in LAR No.782/2000.

. The land belonging to Respondent No.1, admeasuring 40 x 40 ft. from Survey No.72/2 situated at village Kawa, Tq. And District Latur, was acquired for the purposes of village tank. A

Notification under Section 4 of the Land Acquisition Act, 1894 (for short, the Act) in that regard was published in the Official Gazette on 5th July, 1994. An award under Section 11 came to be passed on 30th June, 1998. The Special Land Acquisition Officer had offered the compensation @ Rs.30/- per sq.mtr.

. Being dissatisfied with the amount of compensation so offered, Respondent No.1 preferred Reference Application under Section 18 of the Act. Respondent No.1 sought the compensation of the acquired land @ Rs.32.50 per sq.ft.

. In order to substantiate the claim raised by him, Respondent No.1 had relied upon one sale instance at Exhibit-19. The said sale instance was in relation to the land situated at village Kanheri, admeasuring 1600 sq.ft. which was sold at the consideration of Rs.1,44,000/-, vide the registered sale-deed executed on 31st May, 1994.

3) The Reference Court, relying upon the

said sale instance, determined the market value of the acquired land @ Rs.30/- per sq.ft. and enhanced the compensation accordingly. Aggrieved by, the acquiring body has preferred the present appeal.

4) It is the contention of the appellant in the present appeal that the Reference Court has wrongly relied upon the sale instance at Exh.19. According to the appellant, the land, which was the subject matter of the sale instance at Exh.19, was situated at village Kanheri, whereas the subject land situates at village Kawa. The learned Counsel submits that in such circumstances, the Reference Court could not have relied upon the said sale instance at Exh.19 for determining the market value of the subject land.

. The learned Counsel further submits that the compensation, as determined by the Reference Court, is unreasonable and on higher side. The learned Counsel submits that in such circumstances, the impugned Award needs to be set aside.

. It is the further contention of the learned Counsel that the Special Land Acquisition Officer had correctly determined the market value of the acquired land @ Rs.30/- per sq.mtr by considering the entire circumstances. The learned Counsel submits that no interference was required in the compensation so determined by the Special Land Acquisition Officer.

5) Shri More, learned Counsel appearing for Respondent No.1/ original claimant, submits that village Kanheri and Kawa are adjacent to each other. The learned Counsel further submits that the Reference Court has duly considered the aforesaid aspect. The learned Counsel further submitted that the sale instance, which was relied upon by the claimants was of the date prior to issuance of the Section 4 notification, and as such, the market value of the subject land was liable to be determined on the basis of the said sale instance. The learned Counsel further submits that in fact, the claimant was entitled for some more compensation in view of the sale

instance duly proved by the claimant. However, since the claimant himself has restricted his claim, the Reference Court has not awarded the compensation on higher side and has determined the market value of the subject land @ Rs.30/- per sq.ft. The learned Counsel submits that no interference is required in the impugned Award.

6) I have carefully considered the submissions made on behalf of the learned Counsel appearing for the parties. I have also perused the impugned Judgment and Award and the evidence on record. Admittedly, neither the acquiring body nor the State did adduce any evidence so as to bring on record the market value of the similar lands in the area. The Reference Court has further observed that though the sale instance pertains to the land situated at village Kanheri, since village Kanheri and village Kawa, where the said land is situated, are adjacent to each other, the said sale instance can be held to be basis for determining the market value of the subject land. It does not appear to me that the

Reference Court has committed any error in relying upon the sale instance at Exh.19. On perusal of the judgment, it further appears to me that though the land, which was the subject matter of the sale instance at Exh.19, did receive the consideration @ Rs.90/- per sq.ft. the Reference Court has not awarded same rate while determining the compensation and considering the overall circumstances has determined the market value of the acquired land @ Rs.30/- per sq.ft.

7) After having considered the entire material on record, it does not appear to me that any interference is required in the impugned Judgment and Award. The appeal being devoid of any substance deserves to be dismissed and is accordingly dismissed. Pending civil application, if any, stands disposed of.

(P.R.BORA,J.)

bdv/