

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**3 FIRST APPEAL NO. 270 OF 2016
WITH
CA/13244/2015 IN FA/270/2016**

ANIL DAGADU BAVASKAR

VERSUS

THE SPECIAL LAND ACQUISITION OFFICER-2 UPPER TAPI
PROJECT, HATNUR AND ANOTHER

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Advocate for Appellant : Mr. Kshirsagar Hemraj P.
Mr. SP Sonpawale, AGP for Respondent No.1;
Mrs.Kutti Choudhary Chaitali R. For Resp 2.

CORAM : P.R.BORA, J.

DATE : 27th June, 2017.

PER COURT :

1) Heard learned Counsel appearing for the appellant/s; learned counsel for the acquiring body as well as learned AGP appearing for the State.

2) The appellant has filed the present appeal seeking enhancement in the amount of compensation as awarded by Civil Judge, Senior

Division, Jalgaon (hereinafter referred to as the Reference Court) in LAR No.826/2005 decided on 27th October, 2009. The Reference Court has enhanced the amount of compensation by determining the market value of the acquired land @ Rs.1,95,000/- per hectare for non-irrigated land and Rs.97,500/- per hectare for potkharab land.

3) The only objection raised by the appellant in the present appeal is, that though the acquired land was irrigated land, the Reference Court has held the same to be non-irrigated. The learned Counsel, taking me through the evidence before the trial court as well as the documents placed on record before the trial court, i.e. 7/12 extract, submitted that the evidence on record shows existence of a well in the field of the appellant, which sufficiently indicates that the subject land was irrigated land. The learned Counsel further submitted that the amount of compensation, therefore, needs to

be enhanced by holding the land of the appellant to be irrigated land.

4) Learned AGP resisted the submissions made on behalf of the appellant. The learned AGP submitted that out of the total land of the appellant, only 39 Are land was acquired. The learned AGP submitted that the Reference Court has in para 16 of its judgment, has appropriately discussed the nature of the acquired land. The learned AGP reading out the said observations submitted that the Reference Court has rightly held that the claimant has failed in proving that the acquired land was irrigated land. He, therefore, prayed for dismissal of the appeal.

5) I have perused the impugned judgment and the evidence before the Reference Court. It is revealed that the appellant/claimant has failed in bringing on record any cogent and sufficient evidence showing that the land, which was acquired was irrigated one. It is true that in

7/12 extract existence of well is shown. However, the burden was on the appellant to bring on record sufficient material to show that the portion, which was acquired was being irrigated on the water of the said well. No such evidence has been adduced. In the E-statement also the acquired portion is shown to be a dry land. Moreover, the crop statement also does not indicate that in the acquired portion cash crops were being taken or two crops were being taken.

6) After having considered the material on record, it does not appear to me that the Reference Court has committed any error in awarding the compensation by holding the acquired land to be non-irrigated. 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/