

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

FIRST APPEAL ST.NO.32855/2012 WITH
CIVIL APPLICATION NO.3560 OF 2013

The Special Land Acquisition Officer & anr.

VERSUS

Gayabai Kashiram Patil

Shri B.V. Virdhe, A.G.P. for appellants
Shri A.B. Kale, Advocate for respondent

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CORAM: V.K. JADHAV, J.

DATED: 19th April, 2017.

ORAL ORDER :

1. Heard learned A.G.P. for the appellants.
2. This First Appeal is directed against the common judgment and award dated 22.1.2010, passed by the Jt. Civil Judge, Senior Division, Jalgaon, in L.A.R. No.918/2005.
3. The agricultural land belonging to the claimant situated at village Chinchkheda Bk., Taluka Jamner, District Jalgaon, came to be acquired by the appellant/ State for the submergence area of Waghur Dam vide notification under Section 4 of the Land Acquisition Act, published on 9/3/2002.

The Special Land Acquisition Officer, Jalgaon fixed compensation at the rate of Rs.62,500/- per hector to Rs.93,500/- per hector for the acquired land and awarded total compensation of Rs.47,840/-.

4. Being dissatisfied by the compensation awarded by the Special Land Acquisition Officer, the claimant sought enhancement of compensation on various grounds by filing Land Acquisition Reference as stated above. It has been contended in the said reference that the compensation amount awarded by the Special Land Acquisition Officer is meager, inadequate and not as per prevailing market value. According to the claimant, the claimant was getting income of Rs.50,000/- per hector from Jirayat land. At the relevant time, the rate of land was not less than Rs.1,50,000/- per hector for Jirayat land. The claimant claimed to treat his land as Bagayat land and has claimed compensation at the rate of Rs.6,00,000/- per hector for Bagayat land and Rs.3,00,000/- for Jirayat land.

5. The appellant / State strongly resisted the reference petition by filing written statement. The respondent No.1 has not adduced any evidence. However, the respondent No.2 has adduced oral evidence and filed pursis to that effect, contending that the compensation awarded by the Special Land Acquisition Officer is just and proper, and prayed for rejecting the Land

Acquisition Reference.

6. The learned Joint Civil Judge, Senior Division, Jalgaon, by common judgment and award dated 22/1/2010, awarded the compensation at enhanced rate of Rs.1,95,000/- per hector for Jirayat land and Rs.97,500/- per hector for Pot Kharab land. Hence this First Appeal by the State.

7. Learned A.G.P. for the appellant submits that the Reference Court has erroneously enhanced the valuation of the acquired land when the Special Land Acquisition Officer has considered all the factors while awarding the compensation. The Reference Court has also failed to consider that each land has its own value which depends upon quality, fertility and location of the land.

8. On careful perusal of the judgment and award passed by the Reference Court, I find that the Reference Court, in para 14 of the judgment, after considering the sale instances produced on record, has rightly observed that the claimant has proved that the compensation awarded by the Special Land Acquisition Officer is inadequate and it needs to be enhanced. Therefore, the claimant is entitled to claim enhanced amount of compensation for his land at the rate of Rs.1,95,000/- per hector for Jirayat land and Rs.97,500/- per hector for Pot Kharab land.

On the contrary, 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 Appeal after inordinate delay.

9. In view of the above, I do not find any substance in the First Appeal and the First Appeal is accordingly dismissed at admission stage itself.

10. In view of dismissal of First Appeal, pending Civil Application seeking stay are also disposed of.

(V. K. JADHAV, J.)

fmp/-