

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

FIRST APPEAL NO. 244 OF 2016

SOW. LEELA JEEVBANRAO DESHPANDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Appellants : Mr. Rajhans P. Survase.

AGP for Respondent Nos.1 & 2 : Mr.C.V.Dharurkar.

Advocate for Respondent No.3 : Ms. Ranjana D. Reddy.

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CORAM : **V. K. JADHAV, J.**

DATE : 17th January, 2017.

ORDER:

. Heard finally with consent at admission stage.

2 Being aggrieved by the common judgment and award passed in LAR No.289 of 2011 and other connected reference petitions therein by 2nd Joint Civil Judge Senior Division, Parbhani dated 29th July, 2015, the original Claimants in LAR No.310 of 2011 have preferred this appeal.

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

The Respondent / State has acquired the lands for the purpose of excavation of the right bank canal for Nimna Dudhana Project (Right Canal) for public purpose. The land owned and

possessed by the Appellants / original Claimants also came to be acquired for the said purpose. The Land Acquisition Officer has determined the market price of the acquired lands on the basis of comparison of last three years sale-deeds as well as ready reckoner method awarded the compensation at the rate of Rs.1,250/- and Rs.1,230/- per Are Guntha respectively for dry crop land. Being aggrieved by the same, the Appellants / original Claimants have filed LAR No.310 of 2011 for enhancement of the compensation. The Appellants / Claimants have adduced oral and documentary evidence in support of their case. The learned 2nd Joint Civil Judge Senior Division, Parbhani vide judgment and award dated 29th July, 2015 has awarded the enhanced compensation by considering the sale-deed at Exhibit – 23 at the rate of Rs.2,500/- per Are. Being aggrieved by the same, the Appellants / Claimants have preferred this appeal.

4 The learned counsel for Appellants / Claimants submits that the land of the Appellants / Claimants acquired for the said purpose, was having watering facility and the same also reflected from the 7/12 extract of the aforesaid land. The learned counsel submits that the SLAO as well as the Reference Court have committed mistake in treating the land of the Appellants / Claimants as a dry crop land. The learned counsel submits that even though the Reference Court

has accepted sale-deed Exhibit – 23, the Reference Court ought to have granted the compensation to the Appellants / Claimants by treating his acquired land as an irrigated land.

5 The learned counsel for Respondent / acquiring body submits that this Court by judgment and order dated 14th October, 2016 in First Appeal No.213 of 2016 and other connected appeals arising out of the same award and reference petitions, dismissed those appeals by confirming the order passed by the Reference Court granting compensation at the rate of Rs.2,500/- per Are. Though this appeal is from the same group, the appeal is kept aside at the request of the learned counsel for Appellants / Claimants on the ground that the land of the Appellants / Claimants acquired for the said purpose, is an irrigated land and their appeal stands on different footings. The learned counsel submits that the sale instance Exhibit – 23 relied upon by the Reference Court, is a sale instance of irrigated land and the Reference Court has considered the market rate of the said land without reducing the rate while considering the dry crop land under acquisition and further added 12% weightage of regular rising price per year in the said rate. The learned counsel submits that even if the case of the Appellants / Claimants is accepted that their land is an irrigated land, the compensation cannot be enhanced in view of the

facts as narrated above.

6 On careful perusal of the judgment and award passed by the Reference Court, it appears that the Reference Court has considered the sale-deed Exhibit – 23 executed on 20th April, 2006. The Reference Court has observed that this sale-deed was executed prior to the notification of the present acquired land and it could be accepted as a sale instance. The Reference Court has specifically observed that one Santosh Digambarrao Mogal has executed the sale-deed in favour of one Asaram Pralhadrao Mogal on 20th April, 2006 for the land admeasuring 60.70 Are alongwith bore-well for the consideration of Rs.1,27,000/- corresponds to Rs.2,167/- per Are. The Reference Court even though considered the said sale instance Exhibit – 23, has not reduced the rate for the acquired land, which he has concluded in the earlier paragraphs of the judgment as a dry crop land and granted the same rate of Rs.2,167/- per Are by adding 12% weightage of the regular rising price per year. The Reference Court has accordingly granted the enhanced compensation at the rate of Rs.2,500/- per Are considering the facts and circumstances of the case. This Court in the aforesaid group of appeals has also accepted that the Reference Court by considering the sale instance Exhibit – 23 has rightly awarded the compensation at the rate of Rs.2,500/- per

Are. Considering the case of the Appellants / Claimants as it is, no case is made out for grant of compensation on further enhanced rate as claimed. There is no merit in the appeal. Hence, the following order:

ORDER

- I. The appeal is hereby dismissed.
- II. In the circumstances, there shall be no order as to the cost.
- III. The appeal is accordingly disposed of.

[V. K. JADHAV, J.]

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