

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

FIRST APPEAL NO. 3266 OF 2016

THE STATE OF MAHARASHTRA
VERSUS
SANJAY NAMDEV BHAWAR AND OTHERS

...
WITH
FA/3267/2016
WITH
FA/3268/2016
WITH
FA/3269/2016
WITH
FA/3270/2016
WITH
FA/3271/2016
WITH
FA/3272/2016
WITH
FA/3273/2016
WITH
FA/3274/2016
WITH
FA/3275/2016

...
AGP for Appellant : Mr A M Phule
Advocate for Respondents : Mr C. K. Shinde

...
CORAM : V.K. JADHAV, J.
Dated: February 01, 2017
...

PER COURT :-

1. Heard finally with the consent of the parties at admission stage.
2. Being aggrieved by the common Judgment and

Award passed by the learned District Judge-2, Beed dated 12.4.2012 in LAR No.156/2010 and other connected reference petitions, the Respondent-State has preferred these appeals.

3. Brief facts, giving rise to the present appeals, are as follows :-

The original petitioners land came to be acquired by the Government for the construction of Percolation Tank No.8, Pimpala Project at Pimbala, Tq. Ashti, District Beed. The notification under section 4 of the Land Acquisition Act, 1984 was published on 16.2.2016 and actual possession of the land was taken over on 25.8.2003 by applying urgency clause/private negotiations. The Special Land acquisition Officer has passed the award on 31.1.2008. Being aggrieved by the inadequate compensation awarded by the SLAO @ Rs.500/- per R and 600 per R for the acquired land, the petitioners had filed reference petitions claiming compensation at the enhanced rate of Rs.2,000/- per R. According to the petitioners, the compensation granted by the SLAO is extremely meager, inadequate and not as

per the prevailing market price of the locality. The SLAO has not called upon the copies of sale transactions and copies of the sale deeds and he has made classification and grouping of the acquired lands on the basis of land revenue assessment.

4. After considering the evidence adduced by the parties, the learned District Judge, Beed by its impugned judgment and award enhanced the compensation by awarding rate of Rs.1,750/- per R for the acquired land. Being aggrieved by the same, the State has preferred these appeals.

5. The learned AGP appearing for the State submits that, the S.L.A.O has awarded just and reasonable compensation as per the prevailing market rate. The learned AGP submits that, the SLAO has called upon the detail information from village Talathi as to the sale transaction and after considering the sale transactions and market rate, passed the award granting just and reasonable compensation. The learned AGP submits that, Reference Court has considered sale transaction at

Exh.22. The Reference Court has not considered the distance between the acquired land and the land under sale instance Exh.22. The learned District Judge has merely given reference to the village map and observed that the land under sale instance Exh.22 is nearer to the acquired land, however, the exact distance between the acquired land under sale instance is neither mentioned in the impugned judgment and award nor considered by the learned District Judge.

6. Learned counsel for respondents-original claimant submits that, the claimants have relied upon three sale instances Exh.21, 22 and 23 respectively. All these three sale instances are from the same village and after considering the village Map, the learned District Judge has rightly observed in paragraph no.8 of the Judgment that the land under sale instance Exh.22 is nearer to the acquired land compared to the land under sale deed Exh.21 and 23 respectively. The learned counsel submits that said sale instance Exh.22 is in respect of seasonally irrigated land admeasuring 80R out of land S.No.86 for the consideration of Rs.1,50,000/- and it is

prior to the date of notification of land under acquisition. The learned District Judge has also considered that land under sale instance is seasonally irrigated land alongwith 3 anna share in the well water and accordingly reduced the price to the extent of 10,000/- as a price of share in the well water. The Reference Court has awarded just and reasonable enhancement in the compensation. No interference is required. There is no merit in the appeal and the appeals may be dismissed.

7. On careful perusal of the impugned judgment and award and sale instance Exh.21,22 and 23 respectively, it appears that the learned District Judge has considered the sale instance Exh.22 by giving proper reasoning. The learned District Judge has not only compared sale instance at Exh.22 with sale instances at Exh.21 and 23 respectively but also reduced the amount to the extent of Rs.10,000/- as a price of share in well water and accordingly awarded the enhanced compensation at the rate of Rs.1,750/- per R. I do not find any fault in the impugned judgment and Award.

The impugned Judgment and Award is well reasoned. There is no perversity in the judgment and award passed by the Reference Court. The learned District Judge, Beed has enhanced the compensation after considering the documentary evidence adduced by the claimants. There is no merit in the appeals. Hence, I proceed to pass the following order.

O R D E R

All First Appeals are dismissed with costs.

(V.K. JADHAV, J.)

...

aaa/-