

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 596 of 1993

The State of Maharashtra ... Appellant
Vs.
Vishwanath Sahadu Lodhe & Ors. ... Respondents

Mr. Yogesh Dabke, AGP for the appellant/State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **2nd November, 2017.**

ORAL JUDGMENT:

This First Appeal is filed against the judgment and award dated 24th January, 1992 passed by the learned Joint District Judge, Nashik thereby enhancing the amount of the compensation.

2. The suit land admeasuring 55 R in Gat No. 1275/1+2 at Sinnar has been acquired by the State of Maharashtra, by notification dated 2nd October, 1980 under section 4 of the Land Acquisition Act, for construction of colony known as "Kadawa Project at Sinnar". It is an agricultural land but it has high potential of non-agricultural use. The evidence is given that there are colleges, schools, S.T. Bus stand, godown etc. situated near the acquired land. So also this land is also adjacent to the Nashik-Pune State Highway. The claimant has claimed the compensation at the rate of Rs.1,00,000/- per hectare.

The Special Land Acquisition Officer has granted compensation @ Rs.20,000/- per hectare. Being aggrieved, the claimants filed Land Reference bearing No. 149 of 1985 before the learned Joint District Judge, Nashik. The learned Judge enhanced the compensation. Hence this First Appeal.

3. The learned AGP has submitted that the order of enhancing is baseless and the amount is excessive. He submitted that the land acquired is not NA land but it is an agricultural land. The Reference Court, therefore, has erred in giving rise in the rate of amount of compensation , which is to be set aside.

4. None present for the respondents.

5. On perusal of the judgment and record before the Court, it appears that the claimant has tendered the evidence and have examined CW-2 Prakash Motilal Shaha and CW-3 Vasantrao Khanderao Naik. The land of Vasantrao Khanderao Naik was agricultural land located at same place in Sinnar and it was sold by him on 6th October, 1981 @ Rs.1 lakhs per hectare (Exhibit 39).

6. The trial Judge has rightly accepted the said sale instanced for deciding the rate. The sale of sale land has taken place one year after the notice of acquisition in the present case and, therefore, the Reference Court, instead of Rs.1,00,000/- has rightly fixed the rate at Rs.75,000/- per hectare. Therefore, the rate fixed by the Reference Court cannot be considered as excessive but it is a correct rate fixed by the Reference Court. The other benefits given by the Reference Court towards solatium and interest cannot be disputed. Thus, the order of the Reference Court granting compensation is adequate, just and legal.

7. First Appeal is dismissed.

(MRIDULA BHATKAR, J.)