

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO. 71 OF 2005

- 1 The State of Maharashtra
Through Collector, Jalna
 - 2 The Special Land Acquisition Officer
Jalna, Dist. Jalna
 - 3 The Executive Engineer
Minor Irrigation, Z.P. Jalna
- Appellants

Versus

Shaikh Chotu s/o Sk. Rahman
age 40 years, occ. agril.
r/o Kumbhar Pimpalgaon
Tq. Ghansawangi
Dist. Jalna

Respondent

Mr. K.N. Lokhade, AGP for appellants.

CORAM : M.S.SONAK, J.
DATE : 19^h January, 2018.

ORAL JUDGMENT :

1 Heard Mr.Lokhande, learned A.G.P. for appellants.
Respondent is neither present nor represented, though served.

2 The challenge in this First Appeal is to the judgment and award dated 02.11.2001, by which the Reference Court has enhanced the compensation from Rs.390/- per Are to Rs.800/- per Are.

3 Mr.Lokhande, submits that in this case, the sale instances relied upon by the claimants were post Section 4 Notification. He submits that ordinarily, reliance on the post notification sale instances can never be taken into consideration because, once Section 4 Notification is issued, there is bound to be some fluctuation in the market rate. He submits that if this evidence is excluded, there is no

other evidence to sustain the enhancement. He submits that entire award is based only on guesswork and, therefore, ought to be interfered with.

4 The reasoning in the impugned award is contained in paragraph 17. The Reference Court has refused to rely upon the sale instances of post Section 4 Notification. However, the Reference Court has taken note of the sale instances possibly to determine trend of escalation. The award is mainly based on the evidence on record that the acquired lands situate in the proximity of big market, hospital and besides, water facilities are available to the acquired lands. The Reference Court has observed that some amount of guesswork is inevitable in such matters. The rate determined by the Reference Court cannot be said to be beyond bounds of reasonability. The rate is supported by the evidence on record. Accordingly, there is no reason to interfere with the impugned award.

5 Apart from the aforesaid, it is necessary to point out that the enhancement, in the present case, is well within the limits prescribed by the State Government itself in Government Resolution dated 03.11.2016, as amended from time to time. The Government Resolution dated 03.11.2016 records a policy decision of the State Government not to institute appeals or to settle already instituted appeals where compensation awarded by the Reference Court is less than four times the compensation prevalent as per the Ready Reckoner rates on the date of issue of Section 4 Notification. Generally, the compensation awarded by the Special Land Acquisition Officer corresponds to the ready reckoner rates prevalent on the date of issue of Section 4 Notification. In effect, therefore, the Government Resolution dated 03.11.2016 records policy decision of the State to settle the matters where enhanced compensation is less than four times the rate determined by the SLAO, where such rate broadly corresponds to the ready reckoner rates. This formula applies to

the lands located in rural areas. Since, the land, which form subject matter of present appeal, was located in rural area, there is no dispute that it is this formula, which will be applicable to the present appeal.

6 In the present matter, as noted earlier, the SLAO had determined compensation at the rate of Rs.390/- per Are. The Reference Court has determined compensation at the rate of Rs.800/- per Are. This is well within the limits prescribed under the Government Resolution dated 03.11.2016. Accordingly, this appeal can be disposed of in terms of the State's own policy as set out in Government Resolution dated 03.11.2016. However, since the learned A.G.P. had no written instructions for withdrawal of appeal, the matter was heard on merits and is disposed of.

7 For the aforesaid reasons, appeal is dismissed. There shall be no order as to costs.

Pending Civil Application, if any, does not survive and stand disposed of.

M.S.SONAK
JUDGE

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