

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

FIRST APPEAL NO. 2462 OF 2018

The State of Maharashtra
Through- The Special Land Acquisition Officer
Collector Office, Ahmednagar. ..Appellant

Versus

1. Abasaheb Sayaji Rohkale,

2. Babasaheb Sayaji Rohkale

Both Age- Major, Occu. Agril.,
R.o. Bhalwani, Tq. Parner.
Dist. Ahmednagar. ..Respondents

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Mr. A.M. Phule, AGP for Appellant/State.

Mr. Rahul R. Karpe, Advocate for Respondent Nos. 1
& 2.

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CORAM : P.R. BORA, J.

DATED : 07th SEPTEMBER, 2018.

ORAL JUDGMENT:-

1. The State Government has preferred the present appeal against the judgment and order passed in Land Reference Application No.60 of 2012 decided on 17.04.2012 by 2nd Joint Civil Judge (Senior Division), Ahmednagar. .

2. The land of the present respondents was acquired for the Bhalwani-Gunjal Road. The notification under Section 4 of the Land

Acquisition Act, 1894 (hereinafter referred to as 'the Act') was published in the official gazette on 26.02.1998. The award under Section 11 came to be passed on 17.11.2000. The Special Land Acquisition Officer (for short 'SLAO') offered the compensation to the respondents (hereinafter referred to as the claimants) at the rate of Rs. 43,000/- per hector. The SLAO also offered the compensation towards four mango trees to the tune of Rs. 15,690/-. Dissatisfied with the compensation so offered, the claimants filed an application under Section 18 of the Act to the Collector at Ahmednagar, who in turn forwarded the said application to the Civil Court at Ahmednagar (hereinafter referred to as the Reference Court) for adjudication. The claimants had claimed the compensation at the rate of Rs. 2,50,000/- per hector and had also sought the enhanced amount of compensation towards the mango trees.

3. The State has opposed the claim so made by the claimants by filing its written statement. In order to substantiate the claim raised by them, one of the claimants namely Babasaheb Sayaji Rohkale deposed before the Reference Court. The

claimants also examined Dr. Bhimraj Bhujbal as the horticulture expert to bring on record the value of the mango trees. On behalf of the State, the SLAO Shri. Sanjay Bagde testified. The learned Reference Court after having assessed the oral and documentary evidence brought on record before it, determined the market value of the acquired land to the tune of Rs. 53,000/- and the mango trees were valued at Rs. 2,70,000/-. Aggrieved by, the State has filed the present appeal.

4. Shri. Phule, the learned AGP appearing for the appellant-State assailed the impugned judgment on various grounds. The learned AGP submitted that when the SLAO had offered total amount of compensation of Rs. 43,388/-, the Reference Court arbitrarily enhanced it to Rs. 3,23,000/-. The learned AGP submitted that without there being sufficient evidence, the enhancement has been given by the Reference Court. The learned AGP submitted that exorbitant amount has been awarded by the Reference Court towards the mango trees standing in the land of the claimants acquired for the purpose of the Bhalwani-Gunjali Road. The learned AGP submitted that the Reference

Court has explicitly relied upon the report of Shri. Bhujbal in assessing the value of the mango trees. The learned AGP submitted that the SLAO had more scientifically assessed the amount of compensation to be paid towards the mango trees, than Shri. Bhujbal the witness examined by the claimants. The learned AGP, therefore, prayed for setting aside the impugned judgment and award and prayed for restoring the award passed by the SLAO.

5. Shri. R.R. Karpe, the learned counsel appearing for the claimants supported the impugned judgment and award. The learned counsel submitted that the claimants had brought on record the sale instance comparable with the subject land and the learned Reference Court has accordingly determined the market value of the acquired land. The learned counsel submitted that the Reference Court, infact should have awarded some higher market value considering the evidence brought on record by the claimants. The learned counsel further submitted that Shri. Bhujbal, the witness examined by the claimants to bring on record, the valuation of the mango trees, is an horticulture expert and has very methodically given the valuation of the four mango

trees, which were standing in the land of the claimants acquired for the purpose of road. The learned counsel submitted that no contrary evidence has been brought on record by the State and as such, the Reference Court has rightly relied upon the valuation so given by Shri. Bhujbal. The learned counsel submitted that a well reasoned judgment has been passed by the Reference Court and no interference is required in the judgment so passed. The learned counsel, therefore, prayed for dismissal of the appeal.

6. I have given due consideration to the submissions advanced by the learned counsel appearing for the respective parties. I have perused the impugned judgment as well as the evidence on record. In order to substantiate the claim seeking enhancement in the amount of compensation towards the value of the land, the claimants had brought on record two sale instances. First sale instance was dated 29.10.1996, whereby 25 R irrigated land was sold for consideration of Rs. 40,000/-. The second sale instance was pertaining to 4 R land, sale-deed of which was executed on 29.02.1996 for consideration of Rs.

45,000/-, it was a jirayat land. Both the sale-deeds were admittedly executed prior to the date of notification under Section 4 of the Act. The sale-deeds were marked at Exhibit-18 and Exhibit-19.

7. The Reference Court has rightly declined to rely upon the sale instance pertaining to 4 R land, which was sold for consideration of Rs. 45,000/-. As has been observed by the Reference Court the said sale instance could not have been accepted as the comparable sale instance. The Reference Court, however, relied upon the sale-deed at Exhibit-18. The Reference court has observed that the land which was the subject matter of Exhibit-18 was from the same Village Bhalwani, from where the subject land was acquired. It is further observed by the Reference Court that the said land was not at far distance from the acquired land. The learned Reference Court has further considered that the said sale-deed was executed in the year 1996 i.e. about two years prior to publication of the notification under Section 4 of the Act. Considering all these aspects, the Reference Court determined the value of the acquired land at the rate of Rs. 1,00,000/- per hector.

8. It does not appear to me that any mistake has been committed by the Reference Court in determining the market value of the acquired land at the said rate.

9. As noted hereinabove, the claimants had adduced the evidence of Dr. Bhimraj Bhujbal to bring on record the valuation of the mango trees. As has come on record Dr. Bhujbal is a horticulture expert and had carried out several valuations. On perusal of the evidence of Dr. Bhujbal, it is noticed that a very scientific method was adopted by Dr. Bhujbal, while assessing the value of the mango trees standing in the subject land. The Reference Court, in its judgment has elaborately discussed the evidence of Dr. Bhujbal and has also reproduced the calculations as were made by Dr. Bhujbal for arriving at the value of the mango trees. Though, it was vehemently argued by learned AGP Shri. Phule, that the Reference Court arbitrarily enhanced the amount of compensation on account of four mango trees, nothing is brought on record by him, so as to take any contrary view. Even, in the cross-examination of Dr. Bhujbal, no

such material has been brought on record, so as to disbelieve the assessment made by Dr. Bhujbal.

10. After having considered the entire evidence on record, it does not appear to me that the Reference Court has committed any error in enhancing the amount of compensation as per the impugned award. The appeal being devoid of any substance deserves to be dismissed and is accordingly dismissed.

11. In view of dismissal of the appeal, Civil Application No. 1852 of 2018 stands disposed of.

(P.R. BORA, J.)

Mujaheed//