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

FIRST APPEAL NO. 19 OF 2005

1. Gangaram Rama Haral,
   Age : 46 years, Occu. Agri.,
2. Babasaheb Rama Haral,
   Age : 52 years, Occu. Agri.,
3. Sopan Rama Haral,
   Age : 39 years, Occu. Agri.,
4. Vitthal Rama Haral,
   Age : 42 years, Occu. Agril.,
5. Kishan Rama Haral,
   Age : 48 years, Occu. Agri.,

All R/o. Deulgaon Sidhi, Tq. Ahmednagar,
Dist. Ahmednagar. … Appellants

VERSUS

1. The State of Maharashtra
2. The Executive Engineer,
   Minor Irrigation (Employment Guarantee Scheme),
   Ahmednagar, Dist. Ahmednagar. … Respondents

……….
Mr Suresh P. Salgar h/f Mr Nitin V. Gaware, Advocate for the appellants
Mr S. P. Deshmukh, AGP for respondent No. 1/State
………….

CORAM : A. M. DHAVALE, J.
DATE : 16TH AUGUST, 2018.

ORAL JUDGMENT :-

1. This is an appeal against the judgment and order dt. 11.10.2004, passed by the learned Jt. Civil Judge, Sr. Division, Ahmednagar, dismissing LAR No. 323 of 1993.

2. As per admitted facts, by notification u/s 4 dt. 16.02.1984, land of 1H 70 at Block No. 250 from Deulgaon Siddhi, Tq. Nagar, Dist. Ahmednagar, belonging to the claimants, was acquired for percolation tank. The Special Land Acquisition Officer, after enquiry, by award dt. 22.07.1986, awarded compensation at the rate of Rs. 5,000/- per hector and consequential statutory benefits. The aggrieved claimants preferred LAR No. 323 of 1993 before the Civil Judge Senior Division, Ahmednagar. He relied on judgment in LAR No. 12/82 wherein compensation of Rs. 15,000/- per hector was awarded for dry lands and Rs. 30,000/- per hector for irrigated lands. The claimant - Baba led his own evidence. The ld. Civil Judge found that there was no material to show that the land acquired in LAR No. 12/82 was similarly situated to the land of the claimants. Hence, he held that the appellants failed to prove that the compensation awarded by the SLAO was inadequate and improper and the reference was dismissed with no order as to costs. Hence, this appeal.

3. Shri. Suresh Salgar, learned counsel for the appellants submits that, the land acquired under LAR No. 12/82 is from the same taluka and it was acquired for percolation tank only. The Government has awarded compensation at the rate of Rs. 15,000/- per hector to the lands acquired under notification of 1978.

Therefore, the award of compensation at the rate of Rs. 5000/- per hector by the LAO was clearly erroneous. Besides, the SLAO himself has mentioned that there were several sale instances showing the rates upto Rs. 10,000/- in the same village Deulgaon Siddhi. No reasons are given as to why the sale instances of higher amounts were rejected. Hence, the appeal be allowed and the compensation as claimed along with statutory benefits and interest be awarded.

4. Per contra, Shri. Deshmukh, learned Assistant Government Pleader submits that, the burden is on the claimants to prove that the compensation awarded by SLAO is not just and reasonable. The claimants failed to discharge the said burden as they did not produce any comparable sale instances. The sale instances produced were of small pieces lands from different villages of different period. Hence, the application was rightly dismissed. Hence the appeal be dismissed.

5. The points for my consideration with my findings thereon are as follows:

Sr.No.	**Point**	**Finding**
1	Whether the compensation awarded by the Special LAO maintained by the reference court by dismissal of the appeal was just and reasonable?	…. In the negative.

	If not, what order?	Appeal allowed. Compensation enhanced to Rs. 10,000/- per hector.

REASONS

6. The SLAO in the award considered the land revenue assessment and categorized the land on the basis of the revenue payable. It is well settled that the land revenue assessment method is totally outdated and it does not give any fair idea about the market rates. Spl. LAO has categorized the lands from Deulgaon Siddhi into two categories. In category No. 1, he found the sale deeds showing market price ranging from 2958/- to 7142/- per hector. Whereas; in category No. 2, there were sale deeds from the same village showing market price from Rs. 4160/- to 10,000/- per hector. He has awarded Rs. 5,000/- per hector for category No. 1 and Rs. 7,000/- for category no. 2. The claimants were put in category no. 1.

7. The claimants in challenge to the said award relied on the judgment of the Reference Court in LAR No. 12/82, dt. 25.1.1986. This judgment is based on the valuation given in LAR No. 85/82. It appears that, both the LARs arise out of the notification issued in 1978. The award No. LAQ/SR/15/78 shows that, the proceedings were initiated in 1978. It can be assumed, that these rates were given for acquisition by notification of 1978. In these proceedings,

rate of Rs. 30,000/- per hector was given for irrigated lands and rate of Rs. 15,000/- was given for non-irrigated lands.

8. The ld. Reference Judge ought to have considered that the Spl. LAO proceeded on wrong assumption that the market value of the lands is to be fixed as per land revenue assessment. Besides, the sale deeds before him which were disclosed in Annexure - A shows that there were prices in village Deulgaon Siddhi upto Rs. 10,000/- per hector. The award does not disclose what were the dates of these sale deeds and if these sale deeds are prior in point of time, there should have been increase by 10% p.a. over and above the prices shown the sale deeds. The method adopted by Spl. LAO to ignore the sale deeds of higher value without any justifiable reasons is not acceptable. The SLAO should have given reasons why the sale deeds showing the price of Rs. 10,000/- per hector could not have been used to determine the market price of the acquired land of the claimants. It is thus certain, that the valuation made by the LAO was incorrect and was certainly on lower side.

9. No doubt, the burden in land reference is always on the claimant to show that what is the true market value of the land acquired. When the LAO has indicated that there were several sale

instances of Deulgaon Siddhi showing the market price from Rs.2958/- to Rs.10,000/- per hector, the claimants should not have relied on the judgment in LAR No. 12/82 and LAR No. 85/82, wherein market price for dry land is shown at Rs. 15,000/- per hector. It is claimed that, these LARs relate to the lands of village Chas which is also situated in taluka Nagar, Dist. Ahmednagar, like Deulgaon Siddhi. The location of these villages vis-a-vis the highways and big roads and the situation of river are not known and are not brought on record. All the lands acquired from one taluka do not get the same market rate. The claimants have not pleaded and led any evidence to show that statement in the award that there were several sale instances showing the price upto Rs. 10,000/- per hector, was false. There were details of sale instances incorporated in Annexure A, which is unfortunately not the part of the record. It is thus certain that, the claimants relied on the judgment in LAR Nos. 12/82 and 85/82 without showing that the lands acquired from village Chas covered in two LARs i.e. 12/82 and 85/82 are similarly situated and similar in quality. Even 7/12 extracts of those lands were not filed. When sale instances of similar lands from same villages for same period were available, it is not permissible to refer to sale instances of distant village of different periods as those do not show the real market value. In the light of the unchallenged statement from the award, the learned reference Judge was justified in rejecting the market price shown in LAR No. 12/82.

10. However, merely because there were no sale instances before the court, the reference court proceeded to dismiss the claim. The landholders, whose lands are acquired compulsorily by the Government are entitled to get just compensation. It was therefore duty of the ld. reference Judge to verify the material and reasoning of the Spl. LAO and determine whether the valuation done by him is just and reasonable or not. In this regard, reliance can be placed on the judgment in ***P. Ramreddy v. LAO, Hyderabad*** reported in *1995(2) SCC 305*.

11. I, therefore, consider the material before the Spl. LAO and the reasoning given by him. I find that there was no justifiable reason disclosed to discard the sale instances showing the price of Rs.10,000/- per hector by the SLAO. When there was sale instance of Rs. 10,000/- per hector, the compensation determined and awarded at Rs. 5,000/- per hector to the claimants was not just and reasonable compensation. In view of this, the appeal deserves to be allowed partly. Hence, I pass the following order.

ORDER

(i) The appeal is partly allowed.

(ii) The judgment of dismissal by reference Court in LAR No. 323/93 is set aside and the respondents are directed to pay to the claimants compensation at the rate of Rs. 10,000/- per hector with 30% solatium amount and 12% p.a. as third component from the date of the notification to the date of award. The entire amount inclusive of solatium and 3rd component shall carry interest at the rate of 9% p.a. from the date of award for the first year and at the rate of 15% p.a. for the further period till realization of the amount.

(iii) The amount already paid or received by the claimants shall be deducted from amount due with consequential deductions in the rate of interest on the respective amounts.

(iv) In the facts and circumstances, the parties shall bear their own costs.

(v) The award amounting to decree shall be drawn accordingly.

[A. M. DHAVALE]
JUDGE

Punde