

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

**FIRST APPEAL NO. 4166 OF 2016
WITH
CIVIL APPLICATION NO. 1799 OF 2011
IN
FIRST APPEAL NO. 4166 OF 2016**

1. The State of Maharashtra
Through District Collector
Latur.
2. The Special Land Acquisition Officer,
P.T. & I.T. At Latur.
3. The Executive Engineer,
Minor Irrigation Local Sector,
Latur.

.. Appellants.
(Ori. Respondents)

Versus

Abbas Dagadu Mijkuri
Age: 50 years, occu. Agriculturist,
R/o : Ratoda, Tq. Nilanga,
Dist. Latur.

.. Respondent

Mr. A. M. Phule, AGP for appellants.
Mr. Duryodhan N. Gilche, Advocate for respondent.

...

CORAM : SUNIL P. DESHMUKH, J.

DATED : 2nd APRIL, 2018.

ORAL JUDGMENT :-

1. Heard learned counsel for parties.
2. The appeal takes exception to the judgment and award dated 02-05-2009 passed by the civil judge, senior division at Nilanga, district Latur, in land acquisition reference No. 148 of 2003 thereby granting enhancement in compensation.

3. Learned AGP for appellants contends that enhancement in compensation by land acquisition reference court has been exorbitant and excessive, while special land acquisition officer had granted compensation of the acquired lands at the rate of Rs. 370/- per *Are*, the same has been enhanced by multiples granting the same @ Rs. 1312/- per *Are*. According to learned AGP, evidence shows that acquired lands were dry lands. The evidence adduced in respect of Exhibit-19, sale-instance of 1994 may not be giving correct indication of prevailing prices.

4. On the other hand, learned counsel for respondent-original claimant submits that proper sale instances have been taken into account. No contrary evidence is adduced before the reference court. The claimants had demanded more amount. However, the reference court has not granted rate demanded by the claimants. The judgment of the land reference court is based on evidence adduced by the parties. There is no basis to support the contention that rate of lands granted by reference court is exorbitant or excessive. Hence, learned counsel for respondent prays for dismissal of the appeal.

5. The lands under acquisition in this first appeal had been taken in possession on 13-06-1998, even before notification under section 4 of the Land Acquisition Act 1894 had been issued. Award passed by the special land acquisition officer on

18-09-2001. The special land acquisition officer granted compensation at the rate of Rs. 14,800/- per acre whereas claimants had demanded compensation at the rate of Rs. 3,00,000/- per acre. In the circumstances, land acquisition reference bearing No. 148 of 2003 had been filed by the appellants.

6. After hearing learned counsel for parties, it emerges that lands admeasuring 9 Are, 1 hectare, 32 Are and 36 Are from land Survey Nos. 255, 253 and 258 from village Rathoda Ta. Nilanga came to be acquired for percolation tank of village Rathoda. The lands were taken in possession before the notification under section 4 of the Land Acquisition Act. Award had been passed in September, 2001. The reference court decided the reference on 02-05-2009 by granting compensation at the rate of 1312/- per Are along with the statutory benefits. *Although* learned AGP has submitted that compensation has been granted at a far higher rate, yet evidence shows that 2 acre land had been sold from the village Ratoda for a consideration of Rs.75,000/-. The court had assessed 10 % to the sum per year upto the date of notification as per trend in market rates of land. There is no contrary evidence produced on record. Sale deeds Exhibit-28 and 29 could not be considered being subsequent period of notification. For absence of evidence, no compensation had been granted for trees.

7. The reference court has also considered acquired land had been dry land and accordingly had granted compensation and did not accept the claim of claimants to the extent demand for absence of evidence supporting to the extent of demand. It appears that all required aspects have been properly appreciated by reference court. No contrary evidence had been produced on record depicting prices of the land on the relevant day. In the circumstances, it does not appear that reference court had committed any error in granting the compensation along with statutory benefits. As such, this first appeal fails and stands dismissed.

8. Pending civil application stands disposed of accordingly.

Sd/-
[SUNIL P. DESHMUKH]
JUDGE

MTK.