

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

905 FIRST APPEAL NO. 820 OF 2003

The State of Maharashtra,
through Spl. Land Acquisition
Officer, Jalgaon.

..Appellant

VERSUS

Radheshyam Onkardas Agrawal
Age: 45 yrs., Occu.: Agri.,
R/o.Bhusawal, Dist.Jalgaon.

..Respondent

...

AGP for Appellant : Mr.S.P.Deshmukh
Advocate for Respondent: Mr.P.P.Kothari h/f.
Mr.S.S.Bora

...

CORAM : M.S.SONAK, J.

DATE : 8th FEBRUARY, 2018

ORAL JUDGMENT:-

1) This appeal is directed against the Judgment and award dated 25.2.1991 by which the Reference Court has enhanced the compensation in respect of the acquired land from Rs.265/- per Are to Rs.1,500/- per Are. The Land Acquisition Officer had awarded compensation of Rs.13,280/- in all to the respondent/claimant, which has

been enhanced to Rs.75,000/- in all by the Reference Court.

2) Mr.S.P.Deshmukh learned AGP submits that the Reference Court has relied upon a sale instance from the village Varangaon, which is at a distance of 4-5kms. away from village Shirsale where the acquired land is situated. It is pointed out that village Varangaon abuts the National Highway, which facility is not available to the village Shirsale. He points out that there were better amenities available at Varangaon and therefore, sale-instance from Varangaon was not at all comparable sale-instance to determine the rate of the land situated in village Shirsale. He submits that if the sale-instance from Varangaon is excluded then there is absolutely no other evidence to sustain any enhancement.

3) Mr.P.P.Kothari learned counsel, who holds for Mr.S.S.Bora learned counsel for the respondent points out that it is not even the case of the appellant that any

sale-instance was available from the village Shirsale and the same was not produced by the respondent/claimant. He points out that the sale-instance is not in respect of property abutting the National Highway. He points out that the sale-instance is in respect of property, which is very much comparable to the acquired land. He points out that the rate as per the sale-instance comes to Rs.2,04,140/- per Hectare and the Reference Court has already made excessive deduction and taken the rate of the acquired land at only Rs.1,50,000/- per Hectare. Accordingly, he submits that there is no case made out to interfere in the Judgment and award.

4) Upon perusal of the record as well as the impugned Judgment and award, the submission of Mr.P.P.Kothari learned counsel for the respondent will have to be accepted in preference to the submission made by Mr.S.P.Deshmukh learned AGP for the appellant. As contended by Mr.Kothari, it is not even the case of the appellant that any sale-instances of Shirsale were

available and not produced by the respondent/claimant. If any sale-instances were indeed available with the appellant (original respondent), the same were produced before the Reference Court. There is also no dispute that village Varangaon is more or less adjacent to village Shirsale. No doubt, the distance between the land acquired and sale-instance is about 4-5kms, however, the Reference Court has rightly held that the land, which is the subject matter of sale-instance, was not abutting the National Highway. The Reference Court has also looked to the other factors on record in context of comparability. Further, the Reference Court has not accepted blindly the rate as reflected in the sale-instance, but has made substantial deduction. The rate as reflected in the sale-instance was Rs.2,04,140/- per Hectare. After making deduction, the Reference Court has awarded compensation @ Rs.1,50,000/- per Hectare, which comes to Rs.1,500/- per Are. In this case, since, only land ad-measuring 50 Are is came to be acquired i.e.

about half a Hectare of land is came to be acquired, the Reference Court has determined the compensation @ Rs.75,000/- in all. No doubt, the statutory benefits as available under the Land Acquisition Act, 1894, has also rightly awarded and there is no dispute in that regard.

5) There is no infirmity in the reasoning or in determination made by the Reference Court so as to warrants interference in this appeal. The appeal is therefore, dismissed. There shall be no order as to costs.

6) If the compensation amount or any part thereof remains to be withdrawn by the respondent/claimant, then the respondent/claimant is granted leave to withdraw the same together with interest that may have accrued thereon, unconditionally.

[M.S.SONAK, J.]