IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

FIRST APPEAL NO.2025/2012
WITH
CIVIL APPLICATION NO.3277/2009

The State of Maharashtra.
...Appellant..

Versus

Sou.Sushma Rajeev Khedkar & another.
...Respondents...

.....

Shri A.D. Namde, AGP for appellant.
Shri G.R. Syed, Advocate for respondent no.1.
None present for respondent no.2.

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CORAM: M.S. SONAK, J.

DATE: 12.02.2018

ORDER :

1] Heard learned counsel appearing for the parties.

2] In this case, the challenge is to the judgment and award dated 30.1.2007 by which the Reference Court has enhanced the compensation awarded by the Special Land Acquisition Officer to Rs.9500/- per Are. The Special Land Acquisition Officer had determined compensation at the rate of Rs.5,000/- per Are in respect of dry land admeasuring 53 Ares and compensation at the rate of

Rs.7500/- per Are in respect of irrigated land admeasuring 15 Ares. In all, the appellant's property admeasuring 68 Ares came to be acquired for public purpose i.e. extension of Airport.

3] Learned AGP submits that there is no evidence on record to sustain the enhancement. He submits that the sale deed, upon which reliance was placed, was in respect of land adjacent to the State highway, whereas the acquired land was not adjacent to the highway and, therefore, the sale instance was comparative. For these reasons, the learned AGP submits that this appeal is liable to be allowed.

4] Learned counsel for the respondent no.1 – claimant submits that the compensation awarded in the present case is well within the limits prescribed in the Government resolution dated 3.11.2016 and, therefore, the appellant ought not to have even pursued this appeal. Without prejudice, he submits that the Reference Court has relied upon sale deed, which had indicated the rate at Rs.25,000/- per Are. However, the Reference Court has made several deductions and arrived at the rate of Rs.9500/- per Are. He submits that the evidence on record indicates that the acquired land was within the Municipal limits of Aurangabad city and there is absolutely no infirmity in the award made by the Reference Court.

5] Reasoning of the Reference Court is at paragraph nos.16, 17 and 18, which read as follows:

> "16] It appears to me that there is nothing on record to show that sale deed Exh.30 relied on by claimant is not genuine. I, therefore, find that aforesaid sale instance has to be considered for determining the value of acquired land on the date of notification. By aforesaid sale deed, a plot, admeasuring 800 Sq.Ft. had been sold for consideration of Rs.18,000/-. It appears to me that an area of an Are of 4560 Sq.Ft. is equivalent to one Acre and an area of one Acre consists of 40 Gunthas and one Guntha is equivalent to one Are. So, by making proper calculation, the value of 43,560 Sq.Ft. land, considering the consideration amount of Rs.18,000/- for 800 Sq.Ft. would be Rs.9,80,100/-. Therefore, value of one Are land would be @ Rs.24,493/- as per above sale deed. Admittedly, the SLAO had awarded compensation for acquired land to the extent of 53 Are @ Rs.5,000/- per Are and in respect of her acquired land of 15 Are @ Rs.7500/- per Are and thus had paid the compensation of Rs.3,787,000/- to

claimant for acquired land admeasuring 68 Are.

17] In view of entire discussion made by me in foregoing paragraphs above, I find that the valuation of acquired land made by SLAO is inadequate and insufficient. I observed above that the valuation of land shown in sale deed dated 13.06.1991 is @ Rs.24,493/- per Are. As aforesaid sale instance is in respect of a small portion of land and is from non-agricultural layout, about 1/3rd amount of above amount be held to be valuation of present acquired land. While deciding other 3-4 reference cases arising out of the same award, this Court had held that 1/4th of the amount of Rs.24,493/- per Are to be paid as acquired land on the date of notification and accordingly, held valuation Rs.6123/- per Are on the date of notification. However, the lands from said reference were not situated just adjacent to the State Highway. I am, therefore, of the opinion that while determining value of acquired land on the date of notification, 1/3rd of above amount has to be held as value of acquired land on the date of notification. Therefore, the aforesaid valuation @ Rs.24,493/- has to be divided by 1/3rd and that would come at Rs.8164/- per Are. I, therefore, find that the valuation of acquired land, on the date of notification was @ Rs.8164/- per Are. I am of the opinion that about 12% increase in above amount per Are per year has to be given and considering that period between the date of notification i.e. 13.01.1993, and the date of award i.e. 22.06.1995, is of two years, the increase in price would be at Rs.1400/- per Are. Therefore, amount of Rs.1400/- has to be added to Rs.8164/- and amount would be Rs.9564/- per Are as valuation of acquired land. I am further of the view that by neglecting the fraction, the valuation of acquired land on the date of notification is @ Rs.9500/- per Are. I have arrived at this conclusion because in the award, it has been specifically mentioned that acquired land Gut No.525 is adjacent to State Highway i.e. Aurangabad-Beed road at front side.

18] Admittedly, 68 Are land out of Gut No.525 belonging to the claimant had been acquired. Therefore, for arriving at valuation of said acquired land @ 9500/- per Are, the area of 68 Are is to be multiplied by Rs.9500/- and by making multiplication, the amount would be Rs.6,46,000/-. I, therefore, find that valuation of acquired land, on the date of notification was Rs.6,46,000/-. Admittedly, the SLAO had paid the sum of Rs.3,77,000/- to present claimant towards compensation of acquired land. Therefore, this amount of Rs.3,77,000/- has to be deducted from above amount of Rs.6,46,000/- and by making deduction, the amount would be Rs.2,69,000/-. I, therefore, find that the claimant is entitled for enhanced compensation of Rs.2,69,000/-. I, therefore, record my findings accordingly at issue Nos.1,3 & 4."

6] The material on record is more than sufficient to sustain the aforesaid finding made by the Reference Court. The Reference Court has relied upon the sale deed in respect of almost one Acre of land. As per the sale deed, the rate reflected is almost Rs.25,000/- per Are. However, the Reference Court, upon due consideration of the material on record, has made several deductions to arrive at the rate of Rs.9500/- per Are. There is really no infirmity in the rate determined by the Reference Court.

7] That apart, the enhancement is well within the limits prescribed in the Government resolution dated 3.11.2016, as amended from time to time, which records the policy decision of the State Government that the State Government and acquiring bodies will not institute or pursue appeals in which enhanced compensation is less than four times the ready reckoner rate prevalent on the date of issue of Section 4 notification.

8] Upon cumulative consideration of the aforesaid aspects, this appeal is dismissed. Interim order, if any, is hereby vacated. The amount deposited by the appellant can be withdrawn by the respondent no.1 – claimant upon production of proper identification documents. There shall be no order as to costs. Civil Application No.3277/2009 does not survive and is also disposed of.

(M.S. SONAK, J.)