

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO. 144 OF 2004**

The State of Maharashtra
District Collector, Nanded,
2. SLAO B & C Nanded. ..Appellant

Versus

1. Vishwanath Roheji Bokare
Age 60 yrs, Occu. Agri.,
r/o Rahati, Tq. & Dist. Nanded.
2. Bhagwan s/o Roheji Bokare
Age 45 yrs, Occu. Agri.,
r/o Rahati, Tq. & Dist. Nanded. ..Respondents

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

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CORAM : P.R. BORA, J.

DATE : 08th OCTOBER, 2018.

ORAL JUDGMENT:-

1. The State has preferred the present appeal against the judgment and award passed in L.A.R. No.68 of 1991 decided by the Court of Civil Judge Senior Division, Nanded on 08.04.1994. The Civil Court is hereinafter referred to as the 'Reference Court'.

2. The land which is the subject matter in the present appeal was acquired for the purpose of submergence of land in the water of the reservoir of 'Vishnupuri Project'. Notification under Section 4 of the Land Acquisition Act (hereinafter referred to as 'The Act') was published in the

official gazette on 30.01.1986 and the award under Section 11 in that regard came to be passed on 08.06.1987. The SLAO had granted compensation at the rate of Rs. 175 per Are i.e. Rs.7000/- per acre. The total compensation was of Rs. 10,488/-. Dissatisfied with the amount of compensation so offered, the respondents-claimants filed an application under Section 18 of the Act and sought enhancement in the amount of compensation. The Reference Court after having considered the oral and documentary evidence brought on record before it, enhanced the compensation by determining the market value of the acquired land at the rate of Rs. 450 per Are i.e. Rs. 18000/- per Acre and total enhanced amount of compensation was Rs. 28,840/-. Aggrieved by, the State has preferred the present appeal.

3. The respondents-claimants though are duly served, none of them has entered appearance in the matter. The learned AGP Shri Phule appearing for the State assailed the impugned judgment on two grounds. It was the contention of the learned AGP that the sale instance, which is considered by the Reference Court while giving the enhancement in the

price of the market value of the acquired land, cannot be said to be of comparable land and as such could not have been considered by the Reference Court. The further objection as has been raised by the learned AGP is as that the sale instance pertaining to a small piece of land has been relied upon by the Reference Court. One more objection the learned AGP has raised is as about the increased value of the land of the sale instances is considered at the rate of 12% per year when settled principle is to consider the increase in the price of the land at the rate of 10%. On these grounds, the learned AGP has prayed for setting aside the impugned judgment and award.

4. After having considered the submissions made by the learned AGP and on perusal of the judgment impugned in the present appeal, apparently it is revealed that the Reference Court has not committed an error much less any patent error so as to cause any interference in the judgment and award passed by it that too prior to about 14 years. Perusal of the impugned judgment reveals that the Reference Court had relied upon two sale instances, which are at Exhibit-24 and Exhibit-25.

I have carefully perused the discussions made by the Reference Court while appreciating the aforesaid sale instances. It does not appear to me that any error has been committed by the Reference Court in relying upon the said sale instances and determining the market value of the acquired land on the basis of the said sale instances by giving increase of 12% per year in the market price of the said land.

5. Having regard to the fact that the Reference Court has not taken any unconscionable view or has not increased the market value of the acquired land unreasonably, it does not appear to me that any interference is warranted in the judgment and award passed by the Reference Court, which has been impugned in the present appeal. The appeal therefore fails and accordingly dismissed, however, without any order as to costs.

6. If any amount has been deposited by the State in the present appeal shall be remitted in favour of the claimants along with the interest accrued thereon.

(P.R. BORA, J.)