

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1237 OF 2003

The State of Maharashtra
Through the Collector,
Aurangabad

Appellant

Versus

Avchitrao Kondiba Gaikwad
age 50 years, occ. agril
r/o Viramgaon, Tq. Sillod,
Dist. Aurangabad.

Respondent

Mr. A.M. Phule, AGP for appellant.
Mr. D.R. Jayabhar, advocate for respondent.

WITH
CROSS OBJECTION ST. NO. 6361 OF 2013
IN
FIRST APPEAL NO. 1237 OF 2003

Avchitrao Kondiba Gaikwad
age 50 years, occ. agril
r/o Viramgaon, Tq. Sillod,
Dist. Aurangabad.

Appellant

versus

The State of Maharashtra
Through the Collector,
Aurangabad

Respondent

Mr. D.R. Jayabhar, advocate for appellant.
Mr. A.M. Phule, AGP for respondent.

CORAM : M.S. SONAK, J.
DATE : 10th JANUARY, 2018

JUDGMENT :

1. Heard Mr. Phule, learned AGP for appellant-State and Mr. Jayabhar, learned counsel for respondent-original claimant.

2. This appeal is from batch of appeals which came to be disposed of by judgment and order dated 08.01.2018. However, this appeal was not disposed of because respondent had lodged cross-objection and therefore, it was felt that it would be appropriate if this appeal and cross objection are considered separately.

3. Insofar as appeal is concerned, the same is required to be dismissed for reasons which have been set out in the judgment and order dated 08.01.2018 in First Appeal No. 1246/2003 and connected matters. Accordingly, for the reasons set out in the said judgment and order, the first appeal is dismissed.

4. Insofar as cross objection is concerned, learned counsel Mr. Jaybhar submits that, according to him, the Land Acquisition Officer had awarded compensation at the rate of Rs. 499/- per Are and the reference Court, by impugned judgment and award has enhanced the same to Rs. 700/- per Are only. Mr. Jaybhar points out that in some other references arising out of the same section 4 notification, this very reference Court has awarded compensation at the rate of Rs.1,100/- per Are and in some cases also Rs. 2,100/- per Are. He submits that as per the decision of the Hon'ble Supreme Court as well as this Court, insofar as lands which are acquired under same notification are concerned, same compensation is required to be paid. On this basis, Mr.Jayabhar submits that the Cross Objection is liable to be allowed.

5. Although it is true that generally in respect of similar lands under the same notification, there must be consistency insofar as determination of compensation is concerned, the same also depends upon the nature of land in any particular case. In this case however, it appears that appellants have instituted cross objection on the basis of an error that the Land Acquisition Officer has awarded them compensation at the rate of Rs. 499/- per Are only and the reference Court has enhanced the same to only Rs.700/- per Are.

6. On perusal of the record, it is evident that lands admeasuring 0.40 Are out of gat no. 93 and 2 Hectares 81 Are out of gat no. 94 held by respondents-claimants came to be acquired. This means that total land of respondent which came to be acquired admeasures to 3 Hectares and 21 Are or 321 Are. The Land Acquisition Officer, had infact awarded compensation of Rs.3,07,049/- which corresponds to Rs.1152/- per Are. Reference Court has however enhanced this compensation to Rs.48,295/- which means that rate of award by reference Court approximately comes to Rs.1,400/- per Are. If this is the position, then there is no question of any disparity involved. There is no necessity, therefore, to order any further enhancement by allowing the cross objection.

7. Accordingly, both the first appeal as well as cross objection are liable to be dismissed and the same are hereby dismissed. There shall be no order as to costs.

8. Pending civil application if any, does not survive and stands disposed of.

(M.S. SONAK, J.)

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