

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

FIRST APPEAL NO. 495 OF 2004

The State of Maharashtra,  
Through the Collector,  
Osmanabad .. Appellant/Orig. Respondent

versus

Mazrugani Liyakatali Yenegure,  
Age major, occup. Agri.,  
R/o Marum, Tq. Omerga,  
District Osmanabad .. Respondent/Orig. claimant

WITH

FIRST APPEAL NO. 496 OF 2004

The State of Maharashtra,  
Through the Collector,  
Osmanabad .. Appellant/Orig. Respondent

versus

Ram Vithal Kulkarni  
Age Major, Occup. Agril.,  
R/o Murum, Tq. Omerga,  
Dist. Osmanabad .. Respondent/Orig. claimant

WITH

FIRST APPEAL NO. 497 OF 2004

The State of Maharashtra,  
Through the Collector,  
Osmanabad .. Appellant/Orig. Respondent

versus

Nandkumar Maruit Mali,  
Age 35 years, occup. Agril.  
R/o Murum, Tq. Omerga,  
Dist. Osmanabad .. Respondent/Orig. claimant

Mr. A. M. Phule, Assistant Government Pleader for appellant  
Mr. Kailash B. Jadhav, Advocate h/f Mr. S. B. Bhapkar, Advocate  
for respondents in first appeals no. 495 of 2004 and 496 of 2004

CORAM : SUNIL P. DESHMUKH, J  
DATE : 15th March, 2018

ORAL JUDGMENT :

1. The first appeals are preferred under section 54 of the Land Acquisition Act, 1894 against judgment and award rendered by reference court (Civil Judge, Senior Division, Osmanabad) on 07-12-2002 in land acquisition references bearing no. 15 of 1994, 16 of 1994 and 26 of 1994. Respondents in all these appeals are original claimants.

2. Lands are from village Murum, Tq. Omerga, Dist. Osmanabad. Lands of the claimants were acquired for Benetura Medium Project. Notification under section 4 of the Land Acquisition Act had been issued on 29-12-1987 and the award had been made by the special land acquisition officer on 28-11-1992. The special land acquisition officer granted very inadequate compensation. In the circumstances, afore-stated land acquisition references had been preferred and were decided by reference court as referred to above enhancing compensation granting about ₹ 50,000/- per acre along with concomitant statutory benefits.

3. Learned Assistant Govt. Pleader contends that it cannot be

said that with reference to evidence on record, the extent of enhancement awarded by reference court is sustainable. It is submitted that compensation as granted by reference court is excessive and exorbitant. Evidence on record is insufficient to bear enhancement in compensation. Learned Assistant Government Pleader submits that the claimants had relied on three sale instances at Exhibits 21, 22 and 23 and the court had discarded Exhibits 21 and 22 for all right reasons, however, had erred in relying on Exhibit 23. According to him, sale deed accepted by reference court was in respect of *bagayat* land and would not depict true state of affairs. He submits, rate at which compensation is granted under impugned award of reference court has no basis and the rate granted is not sustainable.

4. On the other hand, learned counsel appearing on behalf of respondents submits that decision by reference court has been rendered with reference to evidence on record. The claimants had placed before the court a sale deed of 1985 in respect of land in close vicinity of acquired land. As a matter of fact, according to him, the claimants had been entitled to compensation at the rate at which said sale deed had been executed and the rate granted by reference court is far too below than the one in sale deed. He, therefore, submits that there is no error committed by reference court and the appeals

deserve to be dismissed.

5. The claimants have examined in support of their claim, the vendor of sale deed at Exhibit - 23. He has proved the sale deed and the contents in the same as well and has further stated that concerned land under sale deed and the lands under acquisition are quite close to each other. The sale deed depicts that 1 hectare, 23 are has been sold at a price of Rs.2,25,000/-. The rate per acre, thus, works out to be around 74,000/- or Rs.829 per Are.

6. Further, the evidence given by the claimants as far as quality, fertility and yields from the acquired lands had not been shaken in any way. The two other sale deeds give an indication that land values had undergone upward swing. It may well be worthwhile to consider that while considering compensation to be paid for acquisition of land, the same is difficult to be referred to with precision and while there is no contrary evidence on record depicting price otherwise than evidence given by claimants, the value determined by the reference court, as a matter fact, would show that it is much below the price which had been fetched by land closer to the lands acquired. It is not the case that the determination of rate of the land by reference court has no nexus with any evidence on record. The rate

determined by reference court does not appear to be deficient of required considerations. As such, the rate which has been determined by reference court having regard to evidence on record, in the absence of any contrary evidence, would be required to be given precedence.

7. Thus, first appeals do not appear to carry any substance and are accordingly dismissed.

SUNIL P. DESHMUKH,  
JUDGE

pnd/-