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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

FIRST APPEAL NO.645 OF 2005

1.The State of Maharashtra.
And the Special Land
Acquisition Officer,
M.I.W., Jalgaon.

2.The Executive Engineer,
M.I.W. Works Division,
Jalgaon, District Jalgaon.

...Appellants...
(Orig.Respondents)

Versus

Sopan Damu Patil,
Age 68 years, Occupation :
Agri., R/o Pet Nashirabad.
Taluka and District Jalgaon.

...Respondent...
(Orig.Claimant)

.....

Shri A.M. Phule, AGP for appellants.
None present for respondent though served.

.....

CORAM: M.S. SONAK, J.

DATE: 17.01.2018

ORAL JUDGMENT :

1] Heard learned AGP for the appellant. The respondent, though served, is neither present nor represented.

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2] The challenge in this appeal is to the award dated 6.1.2005, by which the Reference Court has enhanced the compensation in respect of the acquired land from Rs.90,000/- per Hectare to Rs.1,87,500/- per Hectare in respect of Jirayat land and Rs.93,750/- per Hectare in respect of Pot Kharab land.

3] The learned AGP for the appellant submits that the sale deed relied upon by the Reference Court cannot be said to be a sale deed in respect of comparable land. He points out the sale deed indicating the rate of Rs.2,25,000/- per Hectare and the Reference Court has gone by the registration fees and held that the price would be more than Rs.3,52,000/-1 per Hectare. On this ground, the learned AGP submits that the impugned award is liable to be set aside.

4] Upon perusal of the record, it is seen that the Reference Court has not only relied upon the sale deed dated 10.11.1993, but also the award in Land Acquisition Reference No.209/2001. Though the sale deed indicates that the property admeasuring 1 Hectare 83 Ares was sold for Rs.2,25,000/-, the stamp duty is paid on the basis of market value i.e. Rs.3,52,000/- per Hectare. In these

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circumstances, there is no infirmity on the part of the Reference Court in treating the market value at Rs.3,52,000/- per Hectare and thereafter granting escalation of 10% since in this case the Section 4 notification was dated 17.8.1995. Necessary deductions have been made taking into consideration the land in question was Jirayat land and Pot Kharab land. Normally, Pot Kharab land is offered half the rate assessed in respect of Jirayat lands. This is a normal rule, which has been adopted by the Reference Court in the present case. Accordingly, there is no case made out to interfere with the impugned award and this first appeal is liable to be dismissed.

5] Apart from aforesaid, it is required to be noted that the enhancement is well within the limits prescribed by the State Government in its Government resolution dated 3.11.2016. In terms of this Government resolution where the enhanced amount is less than four times ready reckoner rate prevalent on the date of issuance of Section 4 notification, the Government or its instrumentalities have resolved not to pursue such appeals.

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6] For the aforesaid reasons, the appeal is dismissed. There shall be no order as to costs.

(M.S. SONAK, J.)