

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1044 OF 2003

The State of Maharashtra
through Special Land Acquisition
Officer, Jalgaon

Appellant

Versus

Ghanshyam Bhavsing Gadhari
(Deceased through his heirs)

1. Rama Ghanshyam Gadhari
age 43, occ. agri.

2. Smt. Bhimabai Ghanshya Gadhari
age 68, occ. agri.

**Appeal abated against
R.No. 2 as per
Registrar's order
dt. 13.07.2004**

3. Lilabai Daulat Gadhari
age 38, occ. agri.,

Respondents 1 to 3 r/o Akhatwada
Tq. Pachora,

4. Kalabai Pandurang Gadhari
age 33, occ. agri.
r/o Badarkha, Tq. Pachora.

Respondents

Mr. S.P. Deshmukh, AGP for appellant.
None present for the Respondents.

CORAM : M.S. SONAK, J.
DATE : 19th JANUARY, 2018

ORAL JUDGMENT :

1 Heard Mr.Deshmukh, learned A.G.P. For the appellants. Neither present for the Respondent nor represented, though served.

2 The challenge in this appeal is to the judgment and award dated 17.03.1997 by which the Reference Court has enhanced the compensation in respect of *Jirayat* land ranging from Rs.12,000/- to Rs.20,000/- per hectare determined by the Land Acquisition Officer to Rs.30,000/- per hectare. The Reference Court, in relation to *pot kharab* land, has also awarded compensation.

3 Mr.Deshmukh, learned A.G.P. appearing for the appellant-State, submits that the sale instance relied upon by the Reference Court is not in respect of *Jirayat* lands. He points out that the Reference Court was quite right in not considering the sale instance dated 29.06.1982 from village Nagardeola, but erred in placing reliance upon the sale instance dated 11.06.1981, which was in respect of land from village Akhatwade. The acquired land in the present case was from village Nipane, Tq. Pachora, District Jalgaon. On this basis, Mr.Deshmukh submits that the amount awarded by the Reference Court requires to be set aside.

4 Considering these submissions, there is no case made out to interfere with the impugned judgment and award. The Reference Court has held that the sale deed dated 11.06.1981, though, was in respect of land from village Akhatwade, it is a sale instance in respect of comparable land. There is a finding recorded

by the Reference Court that village Akhatwade is adjoining to village Nipane. In the vicinity of village Nipane, though, the rate as reflected from sale deed dated 11.06.1981, was Rs.46000/- per hectare, the Reference Court made deductions and and has awarded rate of Rs.30,000/- per hectare. Accordingly, there is no case made out to interfere with the impugned judgment and award.

5 Apart from the aforesaid, it is necessary to point out that the enhancement, in the present case, is well within the limits prescribed by the State Government itself in Government Resolution dated 03.11.2016, as amended from time to time. The Government Resolution dated 03.11.2016 records a policy decision of the State Government not to institute appeals or to settle already instituted appeals where compensation awarded by the Reference Court is less than four times the compensation prevalent as per the Ready Reckoner rates on the date of issue of Section 4 Notification. Generally, the compensation awarded by the Special Land Acquisition Officer corresponds to the ready reckoner rates prevalent on the date of issue of Section 4 Notification. In effect, therefore, the Government Resolution dated 03.11.2016 records policy decision of the State to settle the matters where enhanced compensation is less than four times the rate determined by the SLAO, where such rate broadly corresponds to the ready reckoner rates. This formula applies to the lands located in rural areas. Since, the land, which form subject matter of present appeal, was located in rural area, there is no dispute that it is this formula, which will be applicable to the present appeal.

6 In the present matter, as noted earlier, the SLAO had

determined compensation at the rate of Rs.12,000/- to Rs.20,000/- per hectare. The Reference Court has determined compensation at the rate of Rs.30,000/- per hectare. This is well within the limits prescribed under the Government Resolution dated 03.11.2016. Accordingly, this appeal can be disposed of in terms of the State's own policy as set out in Government Resolution dated 03.11.2016. However, since the learned A.G.P. had no written instructions for withdrawal of appeal, the matter was heard on merits and is disposed of.

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

(M.S. SONAK)
JUDGE