

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

905 FIRST APPEAL NO. 2714 OF 2017

SHIVAJI BAJIRAO DOLAS
VERSUS
SPECIAL LAND ACQUISITION OFFICER, JAYAKWADI PROJECT NO.1,
AURANGABAD AND ANR.

...
Advocate for Appellant : Mr.V.S.Bedre
Advocate for Respondents/State : Mr.A.M.Phule
...

CORAM : M.S.SONAK, J.
DATE : 18th January, 2018

PER COURT:-

1) Heard Mr.V.S.Bedre learned counsel for the appellant and Mr.A.M.Phule learned AGP for the respondents.

2) Mr.Bedre learned counsel for the appellant submits that in respect of the very same acquisition, the Reference Court has enhanced compensation from Rs.740/- per Are to Rs.6,400/- per Are, however, no enhancement was granted to the appellant because the appellant failed to produce on record original or certified copies of the Sale-Deed. He points out that in other connected matters, the respondents had infact instituted appeals challenging enhancement, but such appeals have been

unconditinoally withdrawn. He submits that rate of Rs.3,600/- per Are has denied and there is no reason as to why such rate is denied to the appellant.

3) Mr.A.M.Phule learned AGP submits that in this case the appellant failed to place any evidence on record. Apart from this, he submits that there is no material on record about similarity of the land. This matter was posted for final disposal at the admission stage. Accordingly, this appeal is admitted and taken up for final disposal forthwith.

4) There does not appear to be a serious dispute that in connected matters arising under the same Notification, the Reference Court, by award dated 3.8.2012 has enhanced the compensation from Rs.740 per Are to Rs.6,400/- per Are. It appears that First Appeals No.3502 of 2015 and connected matters are instituted by the respondents have been withdrawn on 13.10.2017. However, as contended by Mr.Phule learned AGP, the issue of comparability and similarity of the appellant's land and lands which were subject matter of award dated 3.8.2012 in First Appeal No.3502 of 2015 remains.

5) In the aforesaid circumstances, a suggestion made by

learned counsel for the appellant for remand of the matter to the Reference Court deserves to be accepted. This appeal is therefore, partly allowed. The impugned award is set aside and the matter is remanded to the Reference Court for fresh decision on its own merits and in accordance with law, and the appellant and the respondents may be granted opportunities of leading fresh evidence in the matter and the Reference to be disposed of on its own merits and in accordance with law.

6) It is made clear that this Court has not adjudicated the matter on merits and therefore, the observations in this order need not influence the Reference Court in disposing of the Reference on its own merits and in accordance with law.

7) Parties to appear before the Reference Court on 5.2.2018 at 10:30 a.m. and file authenticated copy of this Order.

8) The Reference Court is requested to make endeavour to decide the Reference as expeditiously as possible and in any case within a period of one year from the date of production of authenticated copy of this order.

9) This appeal and civil applications, if any, are disposed of accordingly.

10) There shall be no order as to costs.

11) The Record and Proceedings to be sent to the Reference Court forthwith so as to reach the Reference Court before 5.2.2018.

[M.S.SONAK, J.]