

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL ST.NO.14490 OF 2014

01 Godavari Marathwada Irrigation
Development Corporation,
Aurangabad, through the
Executive Engineer, (Upper
Painganga Project Sub. Div. No.19,
Mukhed), Upper Painganga Project
Div. No.8, Nanded.

02 The State of Maharashtra,
through the Collector, Beed,
that is Special Land Acquisition
Officer, Upper Painganga Project
No.1, Nanded.

03 The Special Land Acquisition
Officer, UPP No.1, Nanded.

Appellants

Versus

Sougandhrao s/o Ganpatrao Khansole,
age: 54 years, Occ: Agri.,
R/o Nyamatullapur, Tq. Mukhed,
District Nanded.

Respondent

WITH
FIRST APPEAL ST.NO.1745 OF 2016

01 Godavari Marathwada Irrigation
Development Corporation,
Aurangabad, through the
Executive Engineer, (Upper
Painganga Project Sub. Div. No.19,
Mukhed), Upper Painganga Project
Div. No.8, Nanded.

02 The State of Maharashtra,
through the Collector, Beed,
that is Special Land Acquisition
Officer, Upper Painganga Project
No.1, Nanded.

03 The Special Land Acquisition
Officer, UPP No.1, Nanded.

Appellants

Versus

Daladhan s/o Ananda Khansole,
age: 44 years, Occ: Agri.,
R/o Nyamatullapur, Tq. Mukhed,
District Nanded.

Respondent

Mr.B.R.Surwase, advocate for appellants.
Mr.R.N.Chavan, advocate for the Respondent.

CORAM : M.S.SONAK, J.

DATE : 13th February, 2018.

ORAL JUDGMENT :

1 Heard learned Counsel for the parties. On their request and with their consent, these two appeals are taken up for final disposal at this stage itself.

2 In both these appeals, the LAO had determined compensation @ Rs.2700/- per Are in respect of acquisition of land admeasuring 30 Ares and 21 Ares, respectively. The Reference Court has enhanced this rate to Rs.5000/- per Are. Further, the Reference Court has directed payment of rental compensation from the date of taking possession i.e. 02.05.2017 till the date of payment.

3 Mr.Surwase, learned Counsel for the appellants submits that there is no proper evidence on record to sustain the issue of enhancement. He submits that in any case, rental compensation could have been only up to the date of making of the

award. He submits that rental compensation has, in fact, been paid by the appellants to the respondents-claimants up to the date of making of the award. For all these reasons, he submits that the impugned award may be set aside.

4 Mr.R.N.Chavan, learned Counsel for the claimants submits that there is more than ample evidence on record to sustain the enhancement. He submits that the enhancement is well within the limits prescribed in the Government Resolution dated 03.11.2016 and, therefore, it is not appropriate for the appellants even to pursue these appeals. He points out that even the entire quantum of compensation is hardly Rs.22,084/- in one matter and Rs.36,780/- in the other. For all these reasons, he points out that total quantum of compensation awarded in these two matters, is not substantial and this is an additional reason why these appeals deserve dismissal.

5 Upon consideration of rival submissions and upon perusal of the material on record, it is clear that there is no case made out to interfere with the enhancement. There is ample material on record, which is discussed by the Reference Court, in paragraphs no.9 to 13 of the impugned judgment and award. That apart, the enhancement appears to be well within the limits prescribed in Government Resolution dated 03.11.2016, 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.2700/- per Are. The Reference Court has determined compensation at the rate of Rs.5000/- per Are. This is well within the limits prescribed under the Government Resolution dated 03.11.2016. Accordingly, these appeals 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 Counsel for appellants had no written instructions for withdrawal of appeals, the matters were heard on merits and are disposed of.

7 Upon cumulative consideration of the aforesaid, there is really no case made out to interfere with the enhancement awarded by the Reference Court.

8 On the issue of rental compensation, learned Counsel appearing for the respondents also agrees that the compensation

is paid till the date of the award. Accordingly, clause (3) of the operative order of the impugned judgment and award is modified and it is clarified that rental compensation will have to be paid from 02.05.2007 till the date of award by the Land Acquisition Officer i.e. 03.08.2009. Learned Counsel for the appellants points out that this amount has already been paid to the respondents. In any case, if this amount is not paid to the respondents, same will have to be paid to the respondents.

9 Thus, the appeals are partly allowed to the aforesaid extent only. There shall be no order as to costs.

10 The Civil Applications, except Civil Applications for withdrawal of amount, do not survive and stand disposed of. The withdrawal is permitted as per this order.

M.S.SONAK
JUDGE

adb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.16406 OF 2015 IN
FIRST APPEAL ST.NO.14490 OF 2014

Godavari Marathwada Irrigation
Development Corporation & others

Applicants

Versus

Sougandhrao s/o Ganpatrao Khansole

Respondent

Mr.B.R.Surwase, advocate for applicants.

Mr.R.N.Chavan, advocate for the Respondent.

CORAM : M.S.SONAK, J.

DATE : 13th February, 2018.

P.C. :

This is an application for condonation of delay in instituting the appeal.

Taking into consideration the cause shown and more particularly, in view of the fact that condonation is not opposed, Civil Application seeking condonation of delay is allowed and is disposed of as such.

**M.S.SONAK
JUDGE**

adb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.1701 OF 2018 IN
FIRST APPEAL ST.NO.14490 OF 2014

Sougandhrao s/o Ganpatrao Khansole Applicant

Versus

Godavari Marathwada Irrigation Development
Corporation,k Aurangabad & others Respondents

WITH
CIVIL APPLICATION NO.1779 OF 2018 IN
FIRST APPEAL ST.NO.1745 OF 2016

Daladhan s/o Ananda Khansole Applicant

Versus

Godavari Marathwada Irrigation Development
Corporation,k Aurangabad & others Respondents

Mr.R.N.Chavan, advocate for the applicant.
Mr.B.R.Survase, advocate for appellants.

CORAM : M.S.SONAK, J.
DATE : 13th February, 2018.

P.C. :

Civil Applications taken out by the respondents- claimants for withdrawal of compensation amount, which has been deposited by the appellants, are allowed and respondents-claimants are permitted to withdraw the deposited amount together with interest accrued thereon unconditionally.

Civil Applications are disposed of accordingly.

M.S.SONAK

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JUDGE

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