

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.455 OF 2003

The State of Maharashtra

Appellant

Versus

Mumtajkhan Bahadurkhan Pathan
age major, occ. agriculturist
Tq. Gangapur, Dist. Aurangabad

Respondent

Mr. S.P. Deshmukh, AGP for appellant.
None for the Respondent.

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

ORAL JUDGMENT :

1 Heard Mr.S.P.Deshmukh, learned A.G.P. for the appellant.
Respondent is neither present nor represented, through served.

2 The challenge in this appeal is to the judgment and award dated 25.04.1997, by which the Reference Court has enhanced the compensation awarded by the Special Land Acquisition Officer from Rs.700/- per Arte to Rs.1500/- per Are in respect of the acquired land.

3 Mr.Deshmukh, learned A.G.P., submits that the sale deed dated 02.01.1989 (Article B), relied upon by the claimant, was not in respect of comparable land and, therefore, the Reference Court erred in relying upon the same and enhancing the compensation. He submits that the sale deed was in respect of dry land and, therefore, the Reference Court was in error in mechanically doubling the rate. For these reasons, he submits that the impugned award may be set aside and the compensation determined by the SLAO be restored.

4 In this case, the Reference Court has relied upon the sale instance dated 02.01.1989, which pertains to sale of land from very same village. On perusal of record, there is evidence which establishes that the acquired land was in fact irrigated land, whereas, the land, which is the subject matter of sale deed, was dry land. In these circumstances, no error can be said to have been committed by the Reference Court in relying upon the decision of this Court in **State of Maharashtra & others Vs. Vithal Shinde & others**, 1993 LAC 223, in which, it was held that, normally the market price of the irrigated land is double than the price of the dry land in the said locality. The rate, as reflected in the sale deed, was Rs.795/- per Are. The Reference Court has, on this basis, awarded compensation @ Rs.1500/- per Are. There is absolutely no infirmity in such determination, particularly because, the sale deed was of the year 1989 and Section 4 Notification in respect of acquisition of land in the present case was of the year 1993. This means that some escalation was, in fact, due to the claimant. However, since the claimant has not filed any Cross-objection, there is no reason to interfere with the determination made by the Reference Court.

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.700/- per Are. The Reference Court has determined compensation at the rate of Rs.1500/- per Are. 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.

adb/fa45503

(M.S. SONAK)
JUDGE