

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.4272 OF 2016

01 The State of Maharashtra,
through the Collector, Osmanabad.

02 The Special Land Acquisition Officer,
Manjara Project, Osmanabad.

03 The Executive Engineer,
Stengthening Division, Omerga,
District Osmanabad.

Appellants

Versus

Dattu Kisanrao Jadhav,
age: major, Occ: Agril.,
R/o Talmod, Tq.Omerga,
District Osmanabad.

Respondent

WITH
FIRST APPEAL NO.4273 OF 2016

01 The State of Maharashtra,
through the Collector, Osmanabad.

02 The Special Land Acquisition Officer,
Manjara Project, Osmanabad.

03 The Executive Engineer,
Stengthening Division, Omerga,
District Osmanabad.

Appellants

Versus

Shivaji Ram More,
age: adult, Occ: Agril.,
R/o Talmod, Tq.Omerga,
District Osmanabad.

Respondent

WITH
FIRST APPEAL NO.4274 OF 2016

01 The State of Maharashtra,
through the Collector, Osmanabad.

02 The Special Land Acquisition Officer,
Manjara Project, Osmanabad.

03 The Executive Engineer,
Stengthening Division, Omerga,
District Osmanabad.

Appellants

Versus

Ram More (died) through
his L.R:
Shivaji Ram More,
age: adult, Occ: Agril.,
R/o Talmod, Tq.Omerga,
District Osmanabad.

Respondent

Mr.B.V.Virdhe, A.G.P. for appellants
Mr.V.V.Ingale, advocate for Respondents

CORAM : M.S.SONAK, J.

DATE : 24th January, 2018.

ORAL JUDGMENT :

1 In these three appeals, Record and Proceedings were called for in order to dispose of these appeals at the stage of admission.

2 The challenge in these appeals is to the impugned judgment and award of the Reference Court, by which the Reference Court has enhanced the compensation as awarded by the Special Land Acquisition Officer (SLAO). In First Appeals No.4272/2016 and 4273/2016, the SLAO had awarded compensation @ Rs.275/- per Are in respect of irrigated lands and

@ Rs.245/- per Are in respect of non irrigated lands. The Reference Court has enhanced the same to Rs.454/- per Are. In F.A. No.4274/2016, the SLAO had granted compensation @ Rs.250/- per Are, which, again has been enhanced to Rs.454/- per Arte.

3 Mr.Bhushan Virdhe, learned A.G.P., submits that the Reference Court has relied upon three sale deeds, which were executed after the date of issuance of Section 4 Notification on 11.03.1993. He submits that since this is impermissible, the enhancement warrants interference.

4 On perusal of the record and impugned award, it appears that the claimants did produce sale deeds at Exhibit-22, dated 08.07.1998, Exhibit-23, dated 11.04.1996 and Exhibit-24, dated 26.05.1994, which are of post Section 4 Notification. However, the Reference Court, has not relied upon the sale deeds at Exhibit-22 and 23, but only relied upon sale instance at Exhibit-24, which is dated 26.05.1994 i.e. about one year after issuance of Section 4 Notification.

5 Normally, the sale instances before Section 4 Notification are required to be considered and not post Notification sale deeds. The post notification sale deeds can be looked into for the limited purpose of determining the trend of escalation. In this case, it appears that the sale deed at Exhibit-94 has been looked upon for such purpose only. If, in the year 1994, the rate was Rs.50,000/- per hectare or Rs.500/- per Are, as per the sale deed at Exhibit-24, the Reference Court, by adverting to the nature and

quality of the acquired land, has determined the compensation @ Rs.454/- per Are. There is no serious infirmity in the rate determined 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 appeals.

6 In the present matter, as noted earlier, the SLAO had determined compensation at the rate of Rs.245/- to Rs.275/- per Are. The Reference Court has determined compensation at the rate of Rs.454/- 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 A.G.P. had no written instructions for withdrawal of these appeals, the matter was heard on merits and is disposed of.

7 For the aforesaid reasons, appeals are dismissed. There shall be no order as to costs. In view of disposal of appeals, pending Civil Applications do not survive and stand disposed of.

M.S.SONAK
JUDGE

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