

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

903 FIRST APPEAL NO.1770 OF 2004

- 1) Deelip Umangsing Rana
Age: __ yrs., Occu.: Agriculturist,
R/o. Pratappur, Tal.Taloda.
Dist.Nandurbar (M.S.)
- ..Appellant
(Original Claimant)

Versus

- 1) The State of Maharashtra,
- 2) The Special Land Acquisition Officer,
Nandurbar.
- 3) The Executive Engineer, Sardar
Sarovar Project, Nandurbar.
- ..Respondents
(Original Opponents)

...
Advocate for Appellants : Shri R.M.Deshmukh
AGP for Respondent Nos.1 to 3 : Shri S.J.Salgare

...
CORAM : P.R.BORA, J.
DATE: 25th January, 2019

ORAL JUDGMENT:-

1 The original claimant in Land Acquisition Reference (LAR) No.35 of 2002 decided by Civil Judge, Senior Division, Shahada (hereinafter referred to as 'the Reference Court') on 05.12.2003, has preferred the present appeal seeking enhancement in the amount of compensation awarded by the said Court.

2 The land, which is the subject matter of the present

appeal, was acquired for rehabilitation of village Gopalpur, Tq.Taloda, Dist.Nandurbar. The Notification under Section 4 of the Land Acquisition Act, 1894 in that regard was published on 30.08.2001 and the award under Section 11 came to be passed on 02.05.2002. The Special Land Acquisition Officer (SLAO) had offered the compensation @ Rs.70,540/- per hectare. Dissatisfied with the amount of compensation so offered, the claimant preferred an application under Section 18 of the Act, which was adjudicated by the Court of Civil Judge, Senior Division, Shahada (hereinafter referred to as 'the Reference Court'). The Reference Court, while deciding the Reference Application, has awarded compensation by determining the market value of the acquired land @ Rs.1,40,000/- per hectare. According to the appellant, the Reference Court must have awarded the market value @ Rs.1,60,000/- per hectare. The appellant has therefore preferred the present appeal.

3 Shri R.M.Deshmukh, learned Counsel for the appellant - claimant submitted that though sufficient evidence was adduced before the Reference Court evidencing that subject

land was being irrigated through the water taken from Padalpur Tank and the concerned 7/12 extracts were placed on record, the Reference Court has failed in considering the said evidence. The learned Counsel further submitted that two sale instances were placed on record wherein the dry land had received the rate of Rs.82,500/- per hectare. The learned Counsel submitted that the subject land being irrigated land, double of the said amount must have been awarded by the Reference Court in the present matter. The learned Counsel, therefore, sought enhancement in the amount of compensation.

4 Shri S.J.Salgare, learned AGP opposed the submissions made on behalf of the appellant - claimant. The learned AGP supported the impugned Judgment. The learned AGP pointed out that the Reference Court has observed that the appellant - claimant did not bring on record sufficient evidence in order to prove that the subject land was perennially irrigated or seasonally irrigated land. The learned AGP, in the circumstances, prayed for dismissal of the appeal.

5 After having gone through the impugned Judgment and the evidence on record, it does not appear to me that any interference may be required in the impugned Judgment and award. I have carefully perused the entire evidence on record. The market value, as has been determined by the Reference Court, was correctly determined on the basis of evidence on record. Nothing has been pointed out even in the present appeal so as to take any different view than as has been taken by the Reference Court. The sale deeds, which were relied upon by the claimant were duly considered and accordingly market value was determined for the subject land. In view of the fact that the Reference Court has awarded compensation infact to the expectations of the claimant, I see no reason to cause interference in the Judgment and award so passed. In the circumstances, the following order is passed:-

ORDER

The appeal is dismissed, however, without any order as to the costs.

(P.R.BORA)
JUDGE

SPT