

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

33 FIRST APPEAL NO.1512 OF 2016

The Executive Engineer,
Latur Medium Project,
Latur.

...Appellant.
(Orig.Resp.No.2)

VERSUS

1. Balaji s/o Kashinath Dongare,
Age 38 years, Occupation Agri.,
R/o Sakol Tq. Shirur (A)
Dist. Latur.

2. The State of Maharashtra,
Through District Collector,
Latur.

...Respondents.
(Resp.No.1 is Org.
Claimant and Resp
No.2 is Orig.Resp
No.1)

.....

Mr. U. P. Giri, Advocate, for Appellant.

Mr. V. G. Sakolkar and Mr. H.B.Nandgavale, Advocates, for
Respondent No.1.

Mr. A. M. Phule, AGP for Respondent No.2.

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**WITH
FIRST APPEAL NO. 1511 of 2016**

The Executive Engineer,
Latur Medium Project,
Latur.

...Appellant.
(Orig.Resp.No.2)

VERSUS

1. Sunil s/o Chandarrao Wadikar,
Age 30 years, Occupation Agri.,
R/o Sakol Tq. Shirur (A)
Dist. Latur.

2. The State of Maharashtra,
Through District Collector,
Latur.

...Respondents.
(Resp.No.1 is Org.
Claimant and Resp
No.2 is Orig.Resp
No.1)

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 08-07-2019.

ORAL JUDGMENT :

1. Since both these appeals are arising out of the common Judgment and award passed by the Court of Civil Judge, Senior Division, Nilanga on 30th January, 2012 in LAR No.74/2005 with connected LARs, I heard the common arguments in both these appeals and I deem it appropriate to decide these appeals by a common reasoning.

2. The acquiring body has preferred the present appeals, being aggrieved by the aforesaid common Judgment and Award passed by the civil court, which is hereinafter referred to as the Reference Court. The lands, which are the subject matters of these appeals, were acquired for the purpose of Sakol Medium Project, Right Canal, Sakol. A notification under Section 4 of the Land Acquisition Act, 1894 (herein after referred to as the Act) in that regard was published in the official gazette on

20th April, 1999, whereas award under Section 11 of the Act came to be passed on 21st December, 2001. The Special Land Acquisition Officer had offered the compensation to the respective claimants @ Rs.610/- per Are. Dissatisfied with the amount of compensation so offered, the claimants preferred the applications under Section 18 of the Act, which were adjudicated by the Reference Court. The Reference Court, after having considered the oral and documentary evidence brought on record before it, has determined the market value of the acquired lands @ Rs.2631/- per Are in LAR No.74 of 2005 and Rs.1754 in LAR No.71 of 2005, and has accordingly enhanced the amount of compensation.

3. It is the contention of the appellant acquiring body in these appeals that the Reference Court has arbitrarily enhanced the amount of compensation without there being any cogent evidence therefor. It is further contended that the sale instances, which are relied upon by the Reference Court while determining the market value of these lands, cannot be held to be the sale instances of the comparable lands. It was further contended that the Special Land Acquisition Officer, in fact, had correctly determined the market value of the acquired lands by visiting each

and every land personally and by considering the relevant sale instances, which have occurred in the relevant period and as such, no interference was called for. The learned counsel, therefore, prayed for setting aside the Judgment and award passed by the Reference Court and to restore the award passed by the Special Land Acquisition Officer in the matters.

4. Learned counsel appearing for the respondents - claimants resisted the submissions made on behalf of the acquiring body. The learned counsel raised the preliminary objection, stating that, in view of the policy adopted by the Government, vide Government Resolution dated 3rd November, 2016 read with Corrigendum dated 23rd February, 2017, the present appeals are not liable to be prosecuted further since the market value, as has been determined by the Reference Court, is less than four times of the market value as was offered by the Special Land Acquisition Officer. The learned counsel, in the circumstances, prayed for rejecting the appeals on preliminary grounds. The learned counsel further submitted that even if the matters are considered on merits, the Reference Court, has passed a well-reasoned order by considering the

evidence on record. The learned counsel, in the circumstances, prayed for dismissal of the appeals on both the aforesaid counts.

5. I have given due consideration to the submissions made by the learned counsel appearing for the acquiring body and the learned counsel appearing for the respondents - claimants. I have perused the impugned Judgment. On perusal of the Judgment, it is revealed that the Reference Court has elaborately considered the evidence on record, and more particularly the sale instances brought on record and on the basis of the said evidence, has determined the market value of the acquired lands. After perusal of the impugned Judgment, apparently, it does not appear that the Reference Court has taken any unreasonable view or has enhanced the market value of the acquired lands arbitrarily or on excessive side. Moreover, as has been argued by the learned counsel for the respondents-claimants, in view of the policy adopted by the Government vide the aforesaid Government Resolution and Corrigendum, the present appeals, in fact, are not liable to be prosecuted further. The learned counsel for the respondents-claimants also brought to my notice that even the connected appeals, arising out of the same project, have already been

withdrawn by the acquiring body before the Lok-Adalat. Since there is no such document placed on record, I may not consider the aforesaid contention. However, the fact remains that the market value, as has been determined by the Reference Court, is less than four times of the market value as was offered by the Special Land Acquisition Officer. In such circumstances, considering the Government policy, the present appeals could not have been prosecuted further by the acquiring body. Even on merits, as I have earlier noted, there seems no case for any interference in the impugned Judgment and award. For all above reasons, the appeals deserve to be dismissed and are accordingly dismissed, however without any order as to costs. Similar view was taken in group of petitions in First Appeal No.1521 of 2016 (The Executive Engineer Versus Ramrao s/o yashwant Wadikar (Died) Through L.Rs.), and other matters, in First Appeal No.2272 of 2016 (The Executive Engineer Versus Sudam s/o Kishanrao Madale, others) and other matters, and in First Appeal No.2281 of 2016 (The Executive Engineer Versus Tulsabai w/o Nivrutti Madale, Others) and other matters, decided on 28-01-2019 by this Court. Present appeal is from same bunch i.e. arising out of same award, there is

no hesitation in taking same view.

6. The amount of compensation deposited by the acquiring body in this Court is permitted to be withdrawn by the respective claimants with interest accrued thereon, if already not withdrawn by them.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.