

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

3 FIRST APPEAL NO.2961 OF 2019

THE STATE OF MAH AND ANR
VERSUS
SHANKAR DAMU PATIL, DIED THR. L.RS. NARAYAN AND ORS

...
AGP for Applicants : Mr. A. M. Phule.

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 03-09-2019.

PER COURT :

1. The first appeal has been filed by the Government challenging the Judgment and award passed by learned Civil Judge, Senior Division, Jalgaon in LAR No.416 of 1991 dated 19-12-2006. Since the present respondents No.2 to 4 were served and they failed to appear, the matter is taken up at this stage for final hearing itself. Whether to see the appeal is worth admitting and any interference is required.
2. Heard learned AGP for appellants.
3. The impugned Judgment and award would show that, land admeasuring 0.54 R and Potkharab land admeasuring 0.03 R belonging to the original petitioner situated in Gut No.108 at Varkhed (Kd) came to be acquired for Nashirabad - Sunasgaon - Bodwad - Kurhe - Malkapur road. The notification under Section 4 (1) of the Land

Acquisition Act was issued on 06-02-1986. The award was passed by learned Land Acquisition Officer on 14-09-1987. The Special Land Acquisition Officer had granted compensation @ of Rs.16,000/- per Hectare i.e. 160/- per R and Rs.200/- per Hectare for Potkharab land. Being dissatisfied with the said rate, the reference under Section 18 of the Land Acquisition Act was filed by the original petitioner Shankar Damu Patil and after his death his legal representatives have continued the reference.

4. By filing written statement the respondents opposed the enhancement. The rate given by Special Land Acquisition Officer and reasons stated for the same were supported and it was specifically stated that the said rate granted by Special Land Acquisition Officer is as per the then prevailing market rate.

5. After issues were framed, the learned Reference Court considered the evidence as well as the submissions made by both the Courts and partly allowed the reference. The respondents were directed to pay enhanced compensation for acquisition of Gut No.108 of Rs.27,000/- for Hectare, 0.54 R i.e. Rs.50,000/- total per Hectare (Rs.500/- per R for Jirayat land) and it was given at Rs.750/- for Porkharab land, 0.03 R i.e. Rs.25,000/- per Hectare

(Rs.250/- per R for Potkharab land). The other statutory benefits have also been granted.

6. The perusal of the impugned Judgment would show that, the petitioners had relied on sale deed of one Fakira Khandu Khatik which was executed in favour of one Shantaram Dayaram Patil of the land bearing Gut No.27/2 admeasuring 0.81 R with 0.07 R Potkharab from village Bodwad. It was brought on record that, the boundary of village Bodwad and Varkhed are adjacent to each other, and therefore relying upon the decisions by Hon'ble Apex Court as well as this Court, the enhancement has been granted by the Reference Court. Under such circumstance, there is absolutely no necessity to interfere in the same. Even from the submissions made by learned AGP some different situation has not been pointed out which can be taken note of to reduce the amount that has been fixed by the reference Court.

7. In addition to the said fact though the reference was decided in 2006 and the present application for condonation of delay was filed in 2012 yet since it is being considered today note has to be taken in respect of the Government Resolution dated 03-11-2016 along with its subsequent corrigendum dated 23-02-2017 and 13-

08-2018 whereby the Government had specified that, if the enhanced amount by the Reference Court is within four times than the rate granted by the Reference Court then the Government need not file any appeal. Directions were also given that, such matters be taken before Lok-Adalat and endeavour should be made to dispose them of by compromise. Therefore, taking into consideration these Government Resolutions as well as the corrigendum, no necessity to interfere with the Judgment and award passed by the Reference Court and therefore, there is no merit in the present appeal, it stands dismissed. No order as to costs.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.