

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1943 OF 2019

- 1) The State of Maharashtra,
Through : The Collector, Jalgaon.
- 2) The Special Land Acquisition
Officer-III, Jalgaon.

...Appellants.
(Org.Respdts.)

VERSUS

Adhar Dhansing Patil,
Age 32 years, Occupation Agri.,
R/o Gartad Tq. Chopda Dist.
Jalgao.

...Respondent.
(Org.Claimant)

.....
AGP for Appellants : Mr. S. P. Deshmukh.
.....

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 16-09-2019.

ORAL ORDER :

1. The acquiring body has preferred the present appeal challenging the Judgment and award passed in LAR No.83 of 1993, on 21-02-2007, by the learned Ad-hoc District Judge-1, Amalner Dist. Jalgaon, which is hereinafter referred to as the 'Reference Court'.
2. The land bearing Gut No.481 admeasuring 7 R, which is the subject matter of this appeal, was acquired for the purpose of 'Hatnur Project'. The Special Land Acquisition Officer had granted the compensation to the claimant. Dissatisfied with the amount of

compensation so granted, the claimant preferred the application under Section 18 of the Act, which was 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 land @ Rs.883/- per R, and has accordingly enhanced the amount of compensation.

3. It is the contention of the appellant State in this appeal 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 instance, which is relied upon by the Reference Court while determining the market value of this land, cannot be held to be the sale instance of the comparable land. It was further contended that, the Special Land Acquisition Officer, in fact, had correctly determined the market value of the acquired land by visiting the 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 matter.

4. On perusal of the Judgment, it is revealed that the Reference Court has elaborately considered the evidence on record, more particularly the sale instance brought on record, has determined the market value of the acquired land. 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 land arbitrarily or on excessive side. Moreover, 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 appeal is 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 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 appeal could not have been prosecuted further by the State. 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 appeal deserves to be dismissed and is 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 though some of them were not arising out of same project. There is no hesitation in taking same view.

5. The amount of compensation deposited by the acquiring body in this Court is permitted to be withdrawn by the claimant with

interest accrued thereon, if already not withdrawn by them.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-