

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPAEL NO. 93 OF 2017

The State of Maharashtra,
Through The Special Land Acquisition Officer,
Aurangabad

.. Appellant
(original respondent)

Versus

Vishvanath s/o. Aba Rothe,
Age 40 years, Occu. Agril.,
R/o. Rahegavan, Taluka Vaijapur,
District Aurangabad.

.. Respondent
(Original claimant)

...
Mr.M.M.Nerlikar, Additional Govt. Pleader for appellant-State
Mr. A.B. Kale, Advocate for sole-Respondent.

...

CORAM : K.K. SONAWANE,J.

DATE : 12TH JUNE, 2019.

ORAL JUDGMENT :

Heard. Admit. Matter is taken up for final hearing on merit.

2. The appellant- State of Maharashtra, put in controversy the impugned Judgment and Award passed by learned Civil Judge,, Senior Division, Aurangabad, in Land Acquisition Reference No. 116 of 1990, for grant of enhancement of compensation amount, by invoking provision under Section 18 of the Land Acquisition Act, 1894 (for short, 'L.A.Act').

3. Factual matrix of the matter in brief is that, agricultural land bearing Gat No. 31 admeasuring 1 Hector 40 R., located at village Rahegavan, Taluka Vaijapur, District Aurangabad of respondent-original claimant - Vishwanath s/o. Aba Rothe, was acquired by the appellant- State of Maharashtra, for construction of Bordahegaon Medium Project. The notification under Section 4 of the L.A.Act was issued on 29-03-1986. The Special Land Acquisition Officer, after compliance of procedural formalities, declared the Award, thereby awarding compensation of Rs.350/- per R. for the land of respondent-claimant. Being dis-satisfied with the quantum of compensation amount determined by the L.A.O., the original claimant - Vishwanath rushed to the Reference Court and filed an application under Section 18 of L.A. Act to get enhanced compensation awarded to him for his acquired land. In order to prove his claim, the claimant produced documents of sale instances of the agricultural lands located within the vicinity of the acquired land on record. The learned Reference Court considered the entire factual aspects, location, potentiality and the ready-reckoner rates prevailing in the area of agricultural land etc. and partly allowed the reference petition of respondent-original claimant. The Reference Court determined the market value of the acquired land @ Rs.390/- per R. The appellant- State of Maharashtra found reluctant to accept the findings expressed by the learned Reference

Court for calculation of market value of the acquired land. Therefore, the present appeal is being filed on behalf of State of Maharashtra to redress its grievances.

4. During the course of arguments on behalf of learned AGP for appellant - State of Maharashtra, the attention was drawn towards the Government Resolution dated 3rd November, 2016 alongwith subsequent corrigendum dated 13th August, 2018 and 23rd February, 2019. As per Government Resolution dated 3rd November, 2016 and its subsequent corrigendum issued from time to time, the Government of Maharashtra has adopted the policy that if the enhancement of compensation amount for rural area is not more than four times of ready reckoner rates prevailing over in the area of acquired land, during the period of publication of notification under Section 4 of the L.A. Act , then, in such cases, the State Government should refrain itself from filing the appeals in Higher Courts against such enhancement of compensation granted by the learned Reference Court.

5] In the instant case, the concerned L.A.O., appreciated the ready reckoner rates prevailing in the vicinity of the acquired land on the date of issuance of notification under Section 4 of the L.A. Act, and awarded compensation @ Rs.350/- per R. The learned Reference Court, after evaluating the factual aspects comprising

location, potentiality, fertility, etc. of the acquired land determined the market value of the acquired land @ Rs.390/- per R. In the result, the Reference Court granted enhancement of Rs.40/- per R. to the respondent-claimant. Obviously, the enhanced compensation awarded by the learned Reference Court is less than four times of the ready reckoner rates prevailing on the date of notification under Section 4 of L.A.Act in the vicinity of the acquired land. In such circumstances, pursuant to policy decision of the Government of Maharashtra vide Government Resolution dated 03rd November, 2016 and its corrigendum from time to time, it would unjust and improper to cause any interference in the findings arrived at by the learned Reference Court.

5. Moreover, the impugned Judgment and Award passed by the learned Reference Court demonstrates that the respondent-original claimant produced the documents of sale instances on record. The learned Reference Court considered the sale instances and arrived at the conclusion that the market value of the acquired land would be @ Rs.390/- per R. on the date of issuance of notification under Section 4 of the L.A.Act. Therefore, I do not find any propriety to nod in favour of the appellant- State to upset the findings expressed by the learned Reference Court.

6. In the above premises, there is no substance in the contentions propounded on behalf of appellant- State of Maharashtra that the Reference Court has enhanced compensation in excessive and exorbitant manner. It would be reiterated that the enhancement of compensation granted to the respondent is less than the limits specified by the appellant- State of Maharashtra in its Government Resolution dated 3rd November, 2016 for filing the appeal before appellate forum. Moreover, the findings expressed by the learned Reference Court in regard to comparison of sale instances to determine the market value, appears to be just, proper and reasonable. Hence, the appeal being devoid of merit deserves to be dismissed. Accordingly the appeal stands dismissed. No order as to costs.

[K.K. SONAWANE]
JUDGE.

grt/-