

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

FIRST APPEAL NO.3541 OF 2018

Narayan Bhika Patil,
Age 60 yrs., Occ. Agri.,
R/o Khadgaon, Tq. Jamner,
Dist. Jalgaon.

... Appellant.

... **Versus** ...

- 1 State of Maharashtra,
Through Collector, Jalgaon.
- 2 The Special Land Acquisition Officer,
Minor Irrigation Works, Jalgaon.

... Respondents.

...

Mr. G.A. Nagori, Advocate for the appellant

Mr. A.M. Phule, AGP for the respondent Nos.1 and 2

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 13th AUGUST, 2019

JUDGMENT :

1 Present appeal has been filed by the original claimant for the enhancement in the compensation granted by the reference Court.

2 The claimants are the owners of agricultural land Gat No.119 to the extent of 60 % which was situated at village Khadgaon, Tq. Jamner, Dist.

Jalgaon. Out of the said land, land admeasuring 6.78 R non irrigated and 3.65 R barren (*potkharab*) was acquired. Notification under Section 4 of the Land Acquisition Act came to be published on 09.10.1997. Award was passed by learned Special LAO under Section 11 of the Act on 20.11.2000. Prior to that the possession of the land was taken by the private negotiation on 01.01.1995. It was contended that the Special LAO had not considered the market value of the land and whatever amount was awarded is meagre. The land was giving Rs.1,00,000/- per hectare as income to the claimants and for irrigated land the income was Rs.2,00,000/- per hectare. The valuation report was not considered and local inquiry was not made. Therefore, the claimants had claimed compensation @ Rs.2,00,000/- per hectare for irrigated land and Rs.1,00,000/- for barren land.

3 The claim was resisted by the respondents by filing written statement, wherein they had supported the reasons and computation of the compensation made by learned Special LAO.

4 After the issues were framed, claimants led oral as well as documentary evidence and taking into consideration evidence on record, the learned reference Court had partly allowed the petition, enhancement was given @ Rs.1,05,000/- per hectare and to the extent of 60% to the claimants. Further, for barren land it was awarded @ Rs.52,500/- per hectare and 60%

of the same was directed to be given to the claimants. The other statutory benefits were also given. Being dissatisfied with the said Award present appeal has been filed.

5 Heard learned Advocate Mr. G.A. Nagori for appellant and learned AGP Mr. A.M. Phule for the respondent Nos.1 and 2.

6 It has been submitted on behalf of the appellant that the learned reference Court has failed to consider the sale deed dated 13.08.1997 from village Hingne (Bk). Land admeasuring 40 R was sold for consideration of Rs.2,55,000/-. Another sale instance dated 23.05.1996 of Neri (Bk) and Neri Digar were not considered. So also, it was not considered that in other land references from the same village the jirayat land was given compensation @ Rs.1,80,000/- per hectare and in another land reference case it was Rs.1,50,000/- to Rs.1,25,000/- per hectare. Therefore, the said rate deserves to be corrected.

7 Per contra, the learned AGP representing the respondents submitted that the learned reference Court had come to the conclusion that Special LAO had not considered many aspects and therefore, while re-assessing those facts, the sale instances, market value at the time of Notification under Section 4 of the Act, the situation of the property, the

quality of the soil etc. were definitely considered by the reference Court and therefore, there is no illegality or error; requiring interference by this Court.

8 At the outset, note can be taken of the decision in **Special LAO (III), Jalgaon and another vs. Bhagwan Vitthal Sonwane, 2009 (4) Mh.L.J., 308**, wherein the Division Bench of this Court has observed that

“The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-a-vis the land under acquisition by placing the two in juxtaposition.”

Various decisions were considered in this case also and wherein decision in **State of Maharashtra vs. Pralhad Bajrang Magar, 1996 (1) B.C.J. 247**, wherein it was held that *“Pot kharab land cannot be equated with the jirayat land, it may be valued at fifty percent of the market value given to jirayat land”*.

9 Perusal of the impugned Judgment would show that all the evidence, that was led before the learned reference Court, was considered, the sale instances have been taken a note of and it has been held that those sale instances are not of the same village, but were of different village from

the vicinity but map was not produced to show the distance. Then other factors were considered to determine the market value of the acquired land. Though it was observed that the distance between the lands under sale instances are not of the same village, yet all those sale instances have been considered for enhancing the compensation under reference. Further, as regards the rate given in the other three land references from the same village is concerned, it has been stated that the quality of the soil would differ, but then the amount of compensation fixed in L.A.R. No.1485/2005 was considered, who had 40% share in Gat No.119, which was under acquisition in this case. Thus, it can be seen that the learned reference Court had considered all the angles to arrive at the market price on the date of Notification under Section 4 of the Act and therefore, it requires no interference at all. The interest has also been properly awarded and therefore, there is no merit in the present appeal. It deserves to be dismissed. Hence, the following order.

ORDER

- 1 First Appeal is hereby dismissed.
- 2 No order as to costs.

(Smt. Vibha Kankanwadi, J.)