

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1009 OF 2018

The Executive Engineer,
Latur Medium Project, Latur,
Through Godawari Marathwada
Irrigation Development
Corporation, Aurangabad.

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

VERSUS

1. Nilkanth Nivaruti Ingale,
Age 62 years, Occupation Agri.,
R/o Dhanegaon Tq. Latur
Dist. Latur.
2. The State of Maharashtra,
Through the Collector,
Latur.

**...Respondents.
(Respondent No.1
Ori.Claimant)**

.....
Mr. A. N. Gaddime, Advocate, for Appellant.
Mr. A. M. Phule, AGP, for Respondent No.2.
Mr. S. V. Gundre, Advocate for Respondent No.1.

.....
WITH
CA /3606/2019 IN FA/1009/2018
.....

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 29-07-2019.

ORAL ORDER :

1. The acquiring body has preferred the present appeal challenging the Judgment and award passed in L.A.R.No. 695 of 2003, dated 16-10-2012, by the learned Joint Civil Judge, Senior Division, Latur, which is hereinafter referred to as the 'Reference Court'.
2. The land, which is the subject matter of this appeal, was acquired for the purpose of "Construction of K. T. Weir of village

Shivani (Bk.)". 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 17th August, 2000, whereas award under Section 11 of the Act came to be passed on 16-08-2001. The Special Land Acquisition Officer had granted the compensation to the respective claimants @ Rs.1075/- per R i.e. 1,07,500/- per Hectare. Dissatisfied with the amount of compensation so granted, the claimant preferred the application 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.3750/- per R i.e. Rs3,75,000/- per Hectare, and has accordingly enhanced the amount of compensation.

3. It is the contention of the appellant acquiring body 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 instances, which are 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 personally and by considering the relevant sale instance, which have occurred in the relevant period and as such, no interference was called for. The learned advocate, 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. Learned advocate appearing for the respondent No.1 – original claimant resisted the submissions made on behalf of the acquiring body. The learned advocate 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 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 learned counsel, in the circumstances, prayed for rejection of the appeal on preliminary grounds. The learned advocate further submitted that even if the matter is considered on merits, the Reference Court, has passed a well-reasoned order by considering the evidence on record. The learned advocate, in the circumstances, prayed for dismissal of the appeal on both the aforesaid counts.

5. 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 and has determined the market value of the acquired land. The Reference Court has not taken any unreasonable view or has not enhanced the market value of the acquired land arbitrarily or on excessive side. Moreover, in view of the policy adopted by the Government vide the aforesaid Government Resolution and Corrigendum, the present appeal, in fact, is not liable to be prosecuted further. 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 ought not have been prosecuted further by the acquiring body. Even on merits, as I have earlier noted, there seems to be no case for any interference in the impugned Judgment and award. For all above reasons, the appeal deserve 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. 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 claimant with interest accrued thereon, if already not withdrawn by him.

7. Pending civil application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.