

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

FIRST APPEAL NO.2973 OF 2017

1. The Executive Engineer,
Medium Project Division, Osmanabad.
District Osmanabad
(Under Godavari Marathwada Irrigation
Development Corporation, Aurangabad.)
2. The State of Maharashtra
Through Collector Osmanabad. ...Appellants

Versus

Baban s/o Ambadas Hake,
Age 79 Years, Occu. Agril.,
r/o Ramkund, Tq. Bhoom
District Osmanabad. ...Respondent

**WITH
FIRST APPEAL NO. 2974 OF 2017**

1. The Executive Engineer,
Medium Project Division, Osmanabad.
District Osmanabad
(Under Godavari Marathwada Irrigation
Development Corporation, Aurangabad.)
2. The State of Maharashtra
Through Collector Osmanabad. ...Appellants

Versus

Devidas s/o Ambadas Hake,
Age 75 Years, Occu. Agril.,
r/o Ramkund, Tq. Bhoom
District Osmanabad. ...Respondent

**WITH
FIRST APPEAL NO. 2975 OF 2017**

1. The Executive Engineer,
Medium Project Division, Osmanabad.
District Osmanabad
(Under Godavari Marathwada Irrigation
Development Corporation, Aurangabad.)

2. The State of Maharashtra
Through Collector Osmanabad. ...Appellants

Versus

Ratan s/o Ambadas Hake,
Age 70 Years, Occu. Agril.,
r/o Ramkund, Tq. Bhoom
District Osmanabad. ...Respondent

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Mr. D.B. Pawar, Advocate for Appellants.
Mr. Ankush N. Nagargoje, Advocate for Respondents.

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CORAM : P.R. BORA, J.
DATED : 18th FEBRUARY, 2019.

ORAL JUDGMENT:-

. With consent of the learned counsel appearing for the parties, the present appeals are taken up for final disposal at the admission stage.

2. The acquiring body has preferred these appeals against the common judgment and award passed by the Joint Civil Judge Senior Division at Osmanabad in L.A.R. Nos. 272 of 2002, 270 of 2002 and 459 of 2002 decided on 30.06.2012.

3. The lands which are involved in the present appeals were acquired for the construction of Storage Tank at Village Wakwad, Taluka Bhoom, District Osmanabad. The notification under Section 4 of the Land Acquisition Act in that regard was

published in the official gazette on 18.05.1995 and the award under Section 11 came to be passed on 11.08.1998. The SLAO had offered the compensation at the rate ranging between Rs. 160/- to 195/- per R. Dissatisfied with the amount of compensation so offered, the claimants preferred applications under Section 18 of the Act, which were adjudicated by the Court of Joint Civil Judge Senior Division at Osmanabad. The said Court is hereinafter referred to as the 'Reference Court'.

4. In the reference applications, the claimants had claimed the compensation at the rate of Rs.1,00,000/- per acre with all statutory benefits. In order to substantiate their claim, the claimants in addition to their own testimonies relied upon one sale instance. No oral or documentary evidence was adduced by the respondents. The learned Reference Court after having considered the oral and documentary evidence brought before it, enhanced the amount of compensation at the rate of Rs.800/- per R. Aggrieved by, the acquiring body has preferred the present appeals.

5. Shri D.B. Pawar, the learned counsel appearing for the acquiring body submitted that the Reference Court has arbitrarily enhanced the amount of compensation by relying upon the sale instance pertaining to a small piece of land admeasuring 14 R. The learned counsel submitted that as against it, the SLAO had considered the appropriate sale instances which only can be said to be comparable sale instances and has offered the compensation at the rate of Rs.160/- per R to Rs.195/- per R. The learned counsel in the circumstances prayed for setting aside the impugned judgment and award and to restore the award passed by the SLAO under Section 11 of the Act.

6. Shri Nagargoje, the learned counsel appearing for the respondents-claimants supported the impugned judgment and award. The learned counsel tendered across the bar the copy of the judgment delivered by this Court in First Appeal (Stamp) No.13202 of 2016 with connected appeals decided on 10.07.2017. The learned counsel submitted that the aforesaid appeals were arising out of land acquisition references pertaining to the lands acquired for the same project of

construction of Storage Tank at village Wakwad vide the same notification under Section 4 of the Land Acquisition Act published in the official gazette on 18.05.1995 and the award in respect of the acquisition of the said lands was also passed on 11.08.1998. The learned counsel submitted that in the said matters, the Reference Court has enhanced the amount of compensation towards the acquisition of the lands which were the subject matters in the said appeals at the rate of Rs.1,500/- per R and this Court has preferred not to cause any interference in the amount of compensation so enhanced by the Reference Court. The learned counsel submitted that as against the compensation received to the lands which were subject matter of the said appeals, the compensation as has been enhanced in respect of the lands which are subject matter in the present appeals is almost half of the same. The learned counsel in the circumstances prayed for dismissal of the appeals.

7. I have given due consideration to the submissions made by the learned counsel appearing for the parties. I have perused the impugned judgment. I have also gone through the judgment

delivered by this Court in First Appeal (Stamp) No.13202 of 2016 with connected appeals decided on 10.07.2017. There appears no dispute that the lands which are involved in the present appeals and the lands which were the subject matter in the aforesaid first appeals decided by this Court were acquired for the same project of construction of Storage Tank at village Wakwad and vide the same notification dated 18.05.1995 published in the official gazette under Section 4 of the Land Acquisition Act. The award under Section 11 of the Act pertaining to the lands involved in the present appeals and in the aforesaid first appeals were passed on the same date i.e. 11.08.1998. Perusal of the judgment passed by this Court in First Appeal (Stamp) No.13202 of 2016 with connected appeals reveal that the Reference Court has enhanced the compensation for the lands which were the subject matter of the said appeals to Rs.1,500/- per R from Rs.270/- per R offered by the SLAO. In the judgments passed by the Reference Court which were impugned in the said appeals, the Reference Court had relied upon the sale instance pertaining to 14 R land which has also been relied in the

judgments which are impugned in the present appeals by the Reference Court which has decided the said land acquisition references. On a query made to the learned counsel appearing for the acquiring body whether the judgment delivered by this Court in the aforesaid first appeals has been questioned before the Hon'ble Apex Court, the learned counsel submitted that he has no instructions like that. In the aforesaid circumstances, it does not appear to me that the amount of compensation enhanced by the Reference Court at the rate of Rs.800/- per R can be in any way held to be unreasonable or arbitrary.

8. Even otherwise, after having gone through the discussions made by the Reference Court, it appears to me that the Reference Court has not committed any error in relying upon the sale instance which was placed for its consideration. Though it was the contention of Shri Pawar, the learned counsel appearing for the acquiring body that the same could not have been relied upon, it cannot be ignored that while considering the said sale instances, the Reference Court has considered all negative factors and given maximum negative

allowances and though the said land was sold at the rate of Rs.2,857/- per R, very conservatively the Reference Court has determined the market value of the acquired land at the rate of Rs.800/- per R. It does not appear to me that any interference is called for in the judgment and order so passed. In the result, the following order is passed:

ORDER

- i) The appeals are dismissed however, without any order as to costs.
- ii) It is hoped and expected that the acquiring body, considering the fact that the acquisitions are of the year 1995, will remit the amount of compensation as awarded by the Reference Court to the respective claimants as expeditiously as possible and preferably within the period of six months.
- iii) Pending civil applications, if any, stand disposed of.

(P.R. BORA, J.)