

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) No.2517 OF 2011

The State of Maharashtra
and Ors. ...Appellants

Vs.

Shri Dattatraya Ganpati
Aaglave ...Respondent

Mr. A.R. Patil -AGP for the Appellants

CORAM: K.K. TATED, J.

DATED : JUNE 26, 2019

P.C. :

1. Not on Board. At the request made by the learned AGP for the Appellants-State, the matter is taken on board for urgent orders.

2. Heard learned AGP Mr. A.R. Patil for the Appellants.

3. By this First Appeal, the Appellants are challenging the judgment and award dated 3rd April, 2008 in L.A.R. No. 763/2002 passed by the Civil Judge, Senior Division, Solapur holding that the Respondent/Original Claimant is entitled for additional compensation of

Rs.5,550/- in respect of 20R of land from Gat No. 1088 of Village Mouje Bavi, Tal. Barshi, Dist, Solapur at the rate of Rs.75,000/- per hectare.

4. Learned AGP for the Appellants submits that in the present proceeding, the Special Land Acquisition Officer issued Notification under Section 4 of the Land Acquisition Act for acquiring the Respondent's / Claimant's land situated at Village Mouje Bavi, Tal. Barshi, Dist. Solapur for the purpose of Pimpalgaon Dale Medium Project.

5. After following the due process of law, the Special Land Acquisition Officer declared award under Section 11 of the Land Acquisition Act and awarded sum of Rs.15,199/- by way of compensation.

6. Being aggrieved by the said Award, the Respondent/ Claimant preferred reference under Section 18 of the Land Acquisition Act. Reference Court after considering evidence on record, held that the Respondent/Original Claimant is entitled additional compensation of land Rs.5,550/- with statutory benefits.

7. The learned AGP appearing on behalf of the Appellants submits that the Reference Court

erred in coming to the conclusion that the Respondent/Original Claimant is entitled additional compensation in respect of acquired land to the tune of Rs.5,550/-. He submits that the Reference Court failed to consider the evidence on record i.e. sale deeds at the time of deciding the market value of acquired land. He submits that at the time of deciding the market value of the acquired land, the Reference Court relied on the previous judgment in earlier reference at Exhibit 28. He submits that the Reference Court failed to consider the fact that the land involved in the present proceeding as well as in a proceeding at Exh. 28 are all together different and, therefore, there is no question of granting the compensation in favour of the Respondent to the tune of Rs.5,550/-. Hence, Appeal filed by the State of Maharashtra is required to be allowed.

8. After hearing the learned AGP for the Appellants, the following issue is required to be decided in the present First Appeal.

(a) Whether the compensation awarded by the Reference Court is on higher side? ...No

9. It is to be noted that in the present

proceeding, the Land Acquisition Officer acquired 20 are of land from Gat No. 1088 of Village Mouje Bavi, Taluka Barshi, Dist. Solapur for the purpose of Pimpalgaon Dale Medium Project. The Reference Court on the basis of rate of Rs.75,000/- per hectare, awarded sum of Rs.5,550/- in favour of the Respondent-Original Claimant. Bare reading of the judgment shows that the Reference Court has awarded compensation on the basis of the earlier judgment at Exhibit 28.

10. Our High Court in the matter of **Bayaji Tatya Kalunge vs. State of Maharashtra**¹ held that if the lands situated in same village, acquired for same purpose under same notification then claimants are entitled to compensation at the same rate on the ground of parity. Paragraph 5 of the said judgment reads thus:

"5. In this group matter, one appeal came to be filed (First Appeal No. 50/1993) against the order passed by the Reference Court in Land Acquisition

¹ (2007) 2 ALL MR 316

Reference No.97/1985. This Court (Coram: D.S. Zoting, J.) held that, the claimants, in that appeal, were entitled to receive compensation at the rate of Rs.35,000/- per Hectare, in case of Bagayat land and, at the rate of Rs.17,500/- per Hectare in case of Jirayat land on the basis of award passed by the Reference Court either in L.A.R. NO. 101/1985. In the present case before us also, as all these lands are situated in the same village and, were acquired for the same purpose, under the same notification, the appellants (claimants) are entitled to compensation at same rate, as it was awarded in L.A.R. No. 101/1985, on the ground of parity. Learned Judge was wrong in not awarding compensation to the appellants (claimants), at this rate. Therefore, it is necessary to interfere with the findings and the order recorded by the learned Judge."

The Apex Court in the matter of Special Land Acquisition Officer, Malaprabha Dam Project,

Saundatti and Others vs. Madivalappa Basalingappa Melavanki and Others² held that if the small piece of land is acquired and meager amount is awarded by the Reference Court then there is no question of interference at the hand of High Court. In similar way, Apex Court in the matter of **Airports Authority of India vs. Sayagopal Roy and Others**³ held that considering the small amount of compensation awarded to the claimant, there is no question of interference in the order passed by Court below Paragraph 16 of the said judgment reads thus:

"16. In the present case also, considering the small amount of compensation awarded to the claimants, we do not think that this would be a fit case for interference in this appeal. Hence, the appeal is dismissed with no order as to costs."

11. I am of the opinion that the Appellant failed to make out any case for entertaining the First Appeal. The compensation awarded by the Reference Court is according to market

² (1995) 5 SCC 670

³ (2002) 3 SCC 527

value and same is only Rs.5,550/-.

12. In view of this fact, I am of the opinion that the compensation awarded by the Trial Court is just and proper and also do not require any interference in the present First Appeal. Hence, following order:

- (A) First Appeal stands rejected,
- (B) No order as to costs.

(K. K. TATED, J.)