

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO.1201 OF 2015
WITH
CIVIL APPLICATION NO.3780 OF 2015**

The State of Maharashtra .. Appellant

vs.

Shri Prakash Gangaram Patil .. Respondent

Mr.Yogesh Dabke, A.G.P. for the appellant

**CORAM : K. K. TATED, J
DATE : SEPTEMBER 5, 2019**

P.C.:

. Heard the learned A.G.P. for the appellant.

2 By this First Appeal, the appellant is challenging the judgment and award dated 6.1.2014 passed by learned Civil Judge, Senior Division, Sindhurg at Oros in L.A.R.No.32 of 2003 holding that the Respondent original Claimant is entitled additional compensation of Rs.9255/- towards acquired land.

3 The learned A.G.P. for the appellant submits that Reference Court awarded enhanced compensation in respect of acquired

land. Hence, they have good chance of success in the present matter.

4 In the present proceeding, Special Land Acquisition Officer issued notification under section 4 of the Land Acquisition Act dated 13.6.1991 for acquiring Respondent original Claimant's land situated at Village Kurli, Tal. Vaibhavwadi, Dist.Sindhudurg for public purpose i.e. for submersion area of Devgad Medium Irrigation Project. After following due process of law, Special Land Acquisition Officer declared award dated 30.3.1995 under section 11 of the Land Acquisition Act and awarded compensation of Rs.9744.74 inclusive of land cost, price of fruit trees. Being aggrieved by the said award, Respondent original Claimant preferred reference under section 18 of the Land Acquisition Act on 17.10.1996 claiming additional compensation of Rs.1300/- per guntha. Reference Court without considering the evidence on record held that Respondent original Claimant is entitled sum of Rs.9255/- by way of additional compensation in respect of agricultural land.

5 On the basis of above mentioned facts, issue involved in the present First Appeal is that whether compensation awarded by the Reference Court is on higher side.

6 It is to be noted that in the present proceeding, Respondent's land admeasuring 19.0 ares situated at village Kurli was acquired by the State. Reference Court relying on the certified copy of land reference No.253 of 1997 in which land from the same locality was acquired, held that Respondent

original Claimant is entitled additional compensation of Rs.9255/-. In any case, compensation awarded by the Reference Court is meagre.

7. 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 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

¹ (2007) 2 ALL MR 316

(claimants), at this rate. Therefore, it is necessary to interfere with the findings and the order recorded by the learned Judge.”

8 The Apex Court in the matter of Special Land Acquisition Officer, **Malaprabha Dam Project, Saundatti and Others vs. Madivalappa Basalingappa Melavanki and Others**² held that if the small piece of land is acquired and meagre 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. Satyagopal 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.”

9. In view of above mentioned facts, I am of the opinion that compensation awarded by the Reference Court was according to the market value on the date of issuing notification under section 4 of the Land Acquisition Act. Therefore, issue is answered in the

2 (1995) 5 SCC 670

3 (2002) 3 SCC 527

negative. Hence, following order is passed :

- a. First Appeal stands dismissed.
- b. In view thereof, nothing survives in the Civil Application No.3780 of 2015 which is for stay of the judgment and award passed by Reference Court. Same stands dismissed as infructuous.

(K.K.TATED, J.)