

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

**FIRST APPEAL NO.731 OF 2019
WITH
CIVIL APPLICATION NO.2144 OF 2019**

The State of Maharashtra
(Through the Special Land Acquisition
Officer, Minor Irrigation, Nashik) & Anr. .. Appellants

vs.

Noorjaha Abdul Reheman .. Respondent

Ms.Tanaya Goswami, A.G.P. for the appellants

**CORAM : K. K. TATED, J
DATE : JULY 1, 2019**

P.C.:

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

2 By this First Appeal, Appellant State of Maharashtra is challenging the judgment and award dated 03.12.2013 passed by learned 2nd Joint Civil Judge, Senior Division, Nashik in L.A.R. No.23 of 2007 holding that the respondents original claimants are entitled sum of Rs.6,761/- additional compensation in respect of acquired land from Gut No.103 admeasuring 0.04.5 hectare land from village Harsul, Tal & Dist. Nashik for minor irrigation project of Waigholpada Right Canal.

3 In the present proceeding, Special Land Acquisition Officer issued notification under section 4 of the Land Acquisition Act dated 01.10.2002 for acquiring respondent original claimant's land from village Harsul, Tal & Dist. Nashik for minor irrigation project of Waigholpada Right Canal. After following due process of law, Special Land Acquisition Officer declared award dated 15.09.2003 under section 11 of the Land Acquisition Act and awarded compensation of Rs.2,646/- for acquired land along with other benefits.

4 Being aggrieved by the said award, respondent claimant preferred Reference under section 18 of the Land Acquisition Act and claimed additional compensation of Rs.4,554/- for the land. The learned 2nd Joint Civil Judge Senior Division, Nashik awarded sum of additional compensation for the land value Rs.6,761/-. Hence, the present First Appeal.

5 The learned A.G.P. for the appellant submits that, Reference Court erred in coming to the conclusion that, the Respondent Claimant is entitled additional compensation in respect of acquired land. She submits that the Reference Court failed to consider the fact that, at the time of determining the market value, Special Land Acquisition Officer considered the sale instances on the date of issuing notification under section 4 of the Land Acquisition Act. She submits that the Special Land Acquisition Officer declared the award under section 11 of the said Act after considering the sale instances and the market value, on the date of issuing notification under section 4 of the

Land Acquisition Act. She submits that, these facts were not considered by the Reference Court at the time of deciding the market value of the acquired land. Hence, they have good chance of success in the present proceeding. She submits that in the interest of justice, this Hon'ble Court, be pleased to set aside the impugned judgment and award passed by Reference court. She submits that, if award is not set aside, irreparable loss will be caused to them.

6 Heard the learned A.G.P. for the appellant at length. On the basis of submission made by the learned A.G.P. and the impugned judgment and award, following issue arises for my consideration:

ISSUE	FINDING
Whether the market rate determined by the Reference Court is at higher side?	No

7 It is to be noted that, in the present proceeding, appellant acquired respondent's land admeasuring 0.04.5 hectare from village Harsul, Tal & Dist. Nashik for minor irrigation project of Waigholpada Right Canal. For determining the market value of the acquired land, trial Court relied on judgment Ex.21 in earlier matter, in which land was acquired from the same village i.e. Harsul for the same project i.e. minor irrigation project of Waigholpada Right Canal. Notification under section 4 was issued on 01.10.2002 and the land was Jirayat. In that matter, Reference Court awarded compensation @ Rs.1,86,400/- per hectare for jirayat lands. Reference Court on the basis of market

value of jirayat lands held that, in the case in hand, claimant is entitled compensation @ Rs.2,33,000/- per hectare for bagayat land.

8 It is to be noted that the land involved in Ex. 21 as stated hereinabove and the land involved in the case in hand, is from the same village which was acquired for the same project by some date of notification under section 4 of the Land Acquisition Act. 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

¹ (2007) 2 ALL MR 316

(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.”

9 It is to be noted that in the present proceeding, the land admeasuring 0.04.5 hectare acquired by the appellant and the Reference Court awarded additional compensation for acquired land to the tune of Rs.6,761/- only.

10 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

2 (1995) 5 SCC 670

3 (2002) 3 SCC 527

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 In the case in hand, small plot of land is acquired by the State. Not only that meagre amount of Rs.6,761/- is awarded towards additional compensation for acquired land. For the said meagre amount to call respondent claimant in High Court is not proper, because he has to spend more amount to engage some Advocate. In view of these facts and the law declared by our High Court as well as Apex Court, I am of the opinion that present Appeal is required to be dismissed summarily.

12 It is made clear that this order is passed only on the ground that small piece of land is acquired by the appellant for the said project and meagre amount is awarded by the Reference Court. Hence, this order should not be treated as precedent in any other connected and/or similar matters. Hence, following order :

- a) First Appeal is dismissed summarily.
- b) No order as to costs.
- c) In view of dismissal of First Appeal itself, nothing survives in the Civil Application. Same stands dismissed as infructuous.
- d) No order as to costs.

(K.K.TATED, J.)