

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

First Appeal No.758/2019

State of Maharashtra Appellant

Vs.

Vitthal Ganpat Tanawade Respondents
through Legal Heirs

Mr. A. R. Patil, AGP for the Appellant

Mr. Sagar Koursija I/b. t. D. Deshmukh for Respondent
Nos.1A, 1B and 2 to 5.

CORAM : K.K.TATED, J.
DATED : JUNE 26, 2019

P.C.

1 Heard the learned counsel for the parties. By consent of the parties, the matter is taken up for final disposal at the stage of admission.

2 By this First Appeal, the Appellant State of Maharashtra challenges the judgment and award dated 08.02.2011 passed by the learned Civil Judge, Senior Division, Barshi, Dist. Solapur in LAR No.138/2002 holding that the Respondent-Claimants are entitled to additional compensation of Rs.21,630/- in respect of the acquired land admeasuring 1H 03R out of Gut No.208 from village Takali, Tq. Karmala, Dist. Solapur. The amount awarded by the Special Land Acquisition Officer was Rs.27,810/-.

3 The learned AGP for the Appellant submits that in the present proceedings the Special Land Acquisition Officer

issued Notification u/s.4 of the Land Acquisition Act, 1894 on 27.09.1993 for acquiring the Respondent-Claimant's land bearing Gut No.208 admeasuring 1H and 03 R bagayat land situated at village Takali, Tq. Karmala, Dist. Solapur for Ujani Project. He submits that after following due process of law the Special Land Acquisition Officer passed award dated 31.03.1994 u/s.11 of the said Act and awarded compensation of Rs.27,810/-. Being aggrieved by the said land, the Respondent-Claimants preferred Reference u/s.18 of the said Act and claimed sum of Rs.95,790/- as additional compensation.

4 The learned AGP submits that the Reference Court, by impugned judgment and award held that the claimants are entitled to additional compensation of Rs.49,440/- with 30% solatium and 12% component u/s.23(2) and 23(1A) of the said act.

5 The learned AGP submits that the Reference Court erred in coming to the conclusion that the Respondent-Claimant is entitled to additional compensation of Rs.49,440/- in respect of the acquired land. He submits that the Reference Court has failed to consider the fact that, at the time of passing the award u/s.11 of the said Act, the Special Land Acquisition Officer considered several sale instances from the same village in respect of the agricultural land and determined the compensation payable to the Respondent-Claimant in respect of the acquired land. He submits that the Reference Court has erred in coming to the conclusion that the Respondent is

entitled to additional compensation on the basis of the sale deed dated 07.10.1993 in respect of the the land situated at village Takali, out of Gut No.161 admeasuring 1H 66Rs. He submits that in that sale instances one Abdul Rajan Tamboli had purchased 1/3rd share from B.K.Redre for consideration of Rs.73,000/-. He submits that the said sale instance do not disclose the correct market value of the land in the said locality on the date of issuing Notification u/s.4 of the said Act. Hence, the impugned judgment and award passed by the Reference Court is liable to be set aside.

6 On the other hand learned counsel for the Respondent-Claimant has vehemently opposed the First Appeal. He submits that there is no substance in the First Appeal. Same be dismissed with costs. He submits that in the present proceedings, the Reference Court after considering the overall evidence, held that the claimants are entitled to additional compensation in respect of the acquired land. He submits that in the present proceedings the Special Land Acquisition Officer issued Notification u/s.4 of the said Act on 27.09.1993 and the Reference Court relied on the sale instance dated 07.10.1993 from the same village of near about same area for determining the market value of the acquired land. He submits that the Reference Court has awarded compensation in respect of the acquired land as per the market rate on the date of Notification u/s.4 of the said Act. He submits that in any case, the Reference Court has awarded the meager compensation in respect of the acquired land to the Respondent-Claimants. Not only that the area involved in the present matter is also near-about

one hector only. Therefore, there is no question of interfering with the impugned judgment and award. Therefore, the First Appeal is liable to be dismissed with costs.

7 After hearing both the sides, following issue arises for my consideration in the present appeal.

“Whether the compensation awarded by the Reference Court is according to the market rate or not on the date of issuing Notification under Section 4 of Land Acquisition Act, 1894 ?

-Yes.

8 It is to be noted that in the present proceedings the land from village Takali was acquired by the State of Maharashtra by issuing Notification u/s.4 of the said Act. Before the Reference Court, the Respondent-Claimant has placed on record two sale instances from the same village i.e. Takali. The first sale instance was dated 14.12.1993 in respect of the land bearing Gut No.110 admeasuring 0.61 Hecter. In this sale instance, Anjanabai Anandrao Garad had purchased 0.61 Hecter land for consideration of Rs.20,000/- i.e. @ Rs.1,33,000/- per Hecter. Another sale instance placed on record by the Respondent-Claimant was dated 07.10.1993 as stated hereinbaove. The Reference Court decided the market value on the basis of the sale deed dated 07.10.1993.

9 It is to be noted that the apex court in the matter of ***Special Land Acquisition Officer Vs. Malaprabha Dam Project Saundatti & Ors. Vs. Madivalappa Basalingappa***

Melavanki & Ors. (1995) 5 SCC 670 held that if small piece of land is acquired and also if the compensation is meager, there is no question of entertaining the appeal against the said order.

10 Similarly, the Apex Court in the matter of ***Airport Authority of India Vs. Satyagopal Roy & Ors. (2002) 3 SCC 527*** held that if meager compensation is awarded, there is no question of entertaining the appeal against the said award.

11 Considering the evidence on record and particularly both the sale instances, it is crystal clear that the Reference Court has awarded compensation in respect of the acquired land as per the prevailing market rate on the date of issuing Notification u/s.4 of the said Act. Apart from that the total compensation comes to less than Rs.50,000/- i.e. meager amount. Therefore, I am of the opinion that the compensation awarded by the Reference Court in respect of the the acquired land was according to the market value on the date of issuing Notification u/s.4 of the said Act. Hence, I answer the issue in the affirmative.

12 In view of these facts, I am of the opinion that the appeal filed by the Appellant is liable to be dismissed.

13 Hence, following order is passed:

- a. The First Appeal stands dismissed summarily.
- b. No order as to costs.

(K.K.TATED, J.)