



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO. 376 OF 2004

WITH

FIRST APPEAL NO. 1265 OF 2009

FIRST APPEAL NO. 376 OF 2004

Ramlal Hiralal Agrawal (Dead)
through his legal heir :

Ravindra s/o Ramlal Agrawal,
Aged about 44 years, Occ. Business,
R/o. Jai Hind Chowk, Akola,
Tah. and District Akola

.... APPELLANT

VERSUS

1. The State of Maharashtra,
through Collector, Akola
2. The Executive Engineer,
Public Works Division, Akola

...RESPONDENTS

Shri Sandip Tatke, Advocate h/f Shri U.J. Deshpande,
Advocate for the appellant.
Shri S.D. Sirpurkar, A.G.P for respondents / State.

FIRST APPEAL NO. 1265 OF 2009

1. The State of Maharashtra,
through Collector, Akola
2. The Executive Engineer,
Public Works Division, Akola

.... APPELLANTS**VERSUS**

Ramlal Harilal Agrawal (since deceased)
through his legal heirs :

1. Ravindra Ramlal Agrawal,
Aged about 44 years,
R/o. Old City, Jai Hind Chowk,
Akola
2. ~~Sau. Rekha w/o Ramdeo Agrawal,~~
~~Aged about 47 years,~~
~~R/o. Sadar Bazar, Hingoli~~

Deleted as per
Court's order
dated 29/08/2024

...RESPONDENTS

Shri S.D. Sirpurkar, A.G.P. for the appellants / State.
Shri Sandip Tatke, Advocate h/f Shri U.J. Deshpande,
Advocate for respondents

CORAM : PUSHPA V. GANEDIWALA, J.
DATED : DECEMBER 03, 2019.

ORAL JUDGMENT :

Heard.

2. This matter is taken up for final hearing with the consent of both the parties by dispensing with filing of private paper book.

3. I have heard both the Counsel appearing on behalf of both the parties.

4. The judgment and decree of the Reference Court dated 23/04/2004 in L.A.C. No. 213/2003 is challenged by both the claimants and the acquiring body / State.

5. First Appeal No. 376/2004 is preferred by the State of Maharashtra while First Appeal No. 1265/2009 is preferred by the claimants for enhancement of the compensation.

6. Undisputedly, the land bearing Survey No. 67/2004 ad-measuring 0.28 Are situated at Mouje Malkapur which was owned by the original claimant – Shri Ramlal Harlal Agrawal (now through legal representatives) was acquired by the acquiring body for the public purpose. A Notification under

Section 4 of the Land Acquisition Act, 1894 was published on 28/09/1999. The Land Acquisition Officer passed an Award on 19/06/2001 and granted compensation @ Rs. 3300/- per Are.

7. Feeling dissatisfied with the amount of compensation, the claimant filed Reference Petition under Section 18 of the Land Acquisition Act, 1894. The learned trial Court framed necessary issues on the basis of pleadings of the parties, recorded evidence as adduced by the parties and enhanced compensation to Rs. 7000/- per Are.

8. Both the claimant and the State challenged the aforesaid judgment and order of the Reference Court in these appeals.

9. Learned Counsel for the claimant heavily relied on the sale-deed (Exh. 16) dated 01/09/1999 executed for sale of 0.15 Are for consideration of Rs. 11,600/- per Are, wherein the vendor - the claimant himself sold his land to one Pravin Agrawal. It is stated that the learned Reference Court has

committed an error for not relying on this sale-deed, which was the best comparable sale instance with regard to time and situation.

10. On the contrary, learned Assistant Government Pleader on behalf of the State expressed the grievance that the learned Reference Court has granted an exorbitant amount of compensation which is almost double the rate which was awarded by the Land Acquisition Officer.

11. I have considered the submissions made on behalf of both the parties.

12. The following points arise for determination of this Court are :

i) Whether, the assessment by the learned Reference Court for the acquired land is correct and proper ?

ii) Whether, the claimants are entitled to further enhancement in compensation ?

13. At the outset, a perusal of the impugned judgment would reflect that learned Reference Court while deciding the market value of the acquired land took mean of valuation from two sale-deeds, one below exhibit 16 i.e. of 01/09/1999 and the other is of 03/05/1997. However, learned Counsel for the claimants is harping to rely on the sale-deed which is more in proximity in time i.e. sale-deed dated 01/09/1997. The consideration in sale-deed dated 01/09/1999 (exhibit 16) is Rs. 11,600/- while sale-deed dated 03/05/1997 which was relied by the Land Acquisition Officer in the Award is showing consideration of Rs. 3300/- per Are. The sale-deed below exhibit 16 was executed by the claimant herein and sold his 15 Are land out of the same Survey no. i.e. 67/4 to one Pravin Agrawal just prior to 20 days of the publication of Notification. Though the question was asked to the claimant in his cross-examination about genuineness of the said sale-deed, there is no concrete evidence on record as to whether the transaction in the sale-deed below exhibit 16 was a genuine one or not. However, as the sale-deed is executed by the claimant himself and sold his 0.15 Are land out of the same Survey No. 67/2004

just prior to 20 days of the date of Section 4 Notification, which itself is not free from doubt. The learned Reference Court has rightly took a mean of both the sale-deeds and awarded compensation @ Rs. 7000/- per Are which comes to Rs. 7,00,000/- per hectare, which in my opinion is legal, proper and correct.

14. I do not find substance in both the appeals and hence, both the appeals need to be dismissed and are accordingly dismissed with no order as to costs.

**Sd/-
JUDGE**

(SANJAY A. DESHMUKH, J.)