

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

929 FIRST APPEAL NO.2324 OF 2008

1. The State Of Maharashtra,
Through : Collector, Nanded.
2. The Special Land Acquisition Officer,
Degloor Tq. Degloor Dist.Nanded.
3. The Tahsildar, Degloor
Dist. Nanded.

**...Appellants.
(Orig.Respondents.)**

VERSUS

Subhash s/o Hanumantrao Totawar,
Age 26 years, Occupation Agri.,
R/o Thadi Shevgaon Tq.Degloor
Dist. Nanded.

...Respondent.

.....
AGP for Appellants-State : Mr. P. M. Kulkarni.
Advocate for Respondent : Mr. P. R. Katneshwarkar.
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 28-07-2020.

ORDER :

1. The acquiring body has preferred the present appeal challenging the Judgment and award passed in LAR No.104 of 2001, dated 20-08-2005, by the learned Additional District Judge, Biloli Dist. Nanded, which is hereinafter referred to as the 'Reference Court'.
2. The lands, which are the subject matter of this appeal, were

acquired for the purpose of 'Rehabilitation of village Thadi Savargaon Tq.Degloor Dist.Nanded', in file No.97/Desk-3/CR-I. A notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') in that regard was published in the official gazette on 13-11-1997. The Special Land Acquisition Officer had granted the compensation of Rs.3,13,504/-. Dissatisfied with the amount of compensation so granted, the claimant preferred the application under Section 18 of the Act, which was adjudicated by the Reference Court. The Reference Court, after having considered the oral and documentary evidence brought on record before it, has determined the market value of the acquired lands of Rs.4,04,000/- to the claimant, and has accordingly enhanced the amount of compensation.

3. It is the contention of the appellant acquired body in this appeal that, the Reference Court has arbitrarily enhanced the amount of compensation without there being any cogent evidence therefor. It is further contended that the sale instance, which is relied upon by the Reference Court while determining the market value of these lands, cannot be held to be the sale instance of the comparable lands. It was further contended that, the Special Land Acquisition Officer, in fact, had correctly determined the market value of the acquired lands by visiting each and every land personally and by considering the relevant sale instances, which have occurred in the relevant period and as such, no interference was called for. The learned Additional Government Pleader, therefore, prayed for setting aside the Judgment and award passed by the Reference Court and to restore the award passed by the

Special Land Acquisition officer in the matter.

4. Learned counsel appearing for the respondent-claimant resisted the submissions made on behalf of the acquiring body. The learned counsel raised the preliminary objection, stating that, in view of the policy adopted by the Government, vide Government Resolution dated 3rd November, 2016 read with Corrigendum dated 23rd February, 2017, the present appeal is not liable to be prosecuted further since the market value, as has been determined by the Reference Court, is less than four times of the market value as was offered by the Special Land Acquisition Officer. The learned counsel, in the circumstances, prayed for rejection of the appeal on preliminary grounds. The learned counsel further submitted that, even if the matter is considered on merit, the Reference Court, has passed a well-reasoned order by considering the evidence on record. The learned counsel, in the circumstances, prayed for dismissal of the appeal on both the aforesaid counts.

5. Heard the submissions made by the learned Additional Government Pleader appearing for the acquiring body, and perused the impugned Judgment. On perusal of the Judgment, it is revealed that the Reference Court has elaborately considered the evidence on record, more particularly the sale instances brought on record has determined the market value of the acquired lands. After perusal of the impugned Judgment, apparently, it does not appear that the Reference Court has taken any unreasonable view or has enhanced the market value of the acquired lands arbitrarily or on excessive side. Moreover, in view of the policy adopted by the Government

vide the aforesaid Government Resolution and Corrigendum, the present appeal, in fact, is not liable to be prosecuted further. The fact remains that the market value, as has been determined by the Reference Court, is less than four times of the market value as was offered by the Special Land Acquisition Officer. In such circumstances, considering the Government policy, the present appeal could not have been prosecuted further by the acquiring body. Even on merits, as I have earlier noted, there seems no case for any interference in the impugned Judgment and award. For all above reasons, the appeal deserve to be dismissed and is accordingly dismissed, however, without any order as to costs. Similar view was taken in group of petitions in First Appeal No.1521 of 2016 (The Executive Engineer Versus Ramrao s/o yashwant Wadikar (Died) Through L.Rs.), and other matters, in First Appeal No.2272 of 2016 (The Executive Engineer Versus Sudam s/o Kishanrao Madale, others) and other matters, and in First Appeal No.2281 of 2016 (The Executive Engineer Versus Tulsabai w/o Nivrutti Madale, Others) and other matters, decided on 28-01-2019 by this Court. There is no hesitation in taking same view.

6. The amount of compensation deposited by the acquiring body in this Court is permitted to be withdrawn by the claimant with interest accrued thereon, if already not withdrawn by them.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-