

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 FIRST APPEAL NO.2306 OF 2008

1. The State Of Maharashtra,
Through : Collector, Nanded.
2. The Special Land Acquisition Officer,
B & C, Nanded
Collector Office, Nanded.

...Appellants.
(Orig.Respondents.)

VERSUS

1. Abaji Mahadji Suryawanshi,
Age 60 years, Occupation Agri.,
R/o T/T Digamber s/o Mahadji
Suryawanshi, Age 55 years,
Occ.Agri., R/o Lokmani Tq.Bhokar.
2. Digamber Devrao,
Age Major, Occup.Agri.,
3. Govind s/o Devrao,
Age Major, Occup. Agri.,
4. Keshavrao s/o Govindrao,
Age Major, Occup. Agri.,

All R/o Lomkani, Post.halda
Tq. Bhokar Dist. Nanded.

5. The Executive Engineer,
Irrigation, Zilla Parishad,
Nanded.

...Respondents.

(No.1 to 4 Ori.Claimant & No.2 Ori.Respondent No.3)

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AGP for Appellants-State : Mr. B. V. Virdhe.
Advocate for Respondent No.4: Mr. G. N. Chincholkar.

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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.221 of 1999, dated 16-08-2005, by the learned Additional District Judge, Nanded, which is hereinafter referred to as the 'Reference Court'.

2. The land, which is the subject matter of this appeal, was acquired for the purpose of 'Construction of village Dam of Lamkani Tq.Bhokar', in file No.96/SLAO/B&C/CR-92/50. 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 29-07-1993. The Special Land Acquisition Officer had granted the compensation of Rs.1,72,320/-. 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 land of Rs.3,01,520/- to the claimants, and has accordingly enhanced the amount of compensation.

3. It is the contention of the appellant acquiring 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 the land, cannot be held to be the sale instance of the comparable land. It was further contended that, the Special Land Acquisition Officer, in fact, had correctly determined the market value of the acquired land by visiting 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 Advocate appearing for the respondent No.4–claimant resisted the submissions made on behalf of the acquiring body. The learned Advocate 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 Advocate, in the circumstances, prayed for rejection of the appeal on preliminary grounds. The learned Advocate further submitted that, even if the matter is considered on merits, the Reference Court, has passed a well-reasoned order by considering the evidence on record. The learned Advocate, 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 who has made submissions in support of contents of appeal memo. Perused the impugned Judgment.

6. 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 and has determined the market value of the acquired land. Reference Court has not taken any unreasonable view nor enhanced the market value of the acquired land 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.

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

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-