

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 493 OF 2014
ALONGWITH
CIVIL APPLICATION NO. 1731 OF 2013
IN
FIRST APPEAL NO. 493 OF 2014

The State of Maharashtra & Ors.

**..... Appellants/
Applicants**

VERSUS

Kondiba Ambadas Pawar

..... Respondent

Mr.A.R.Patil, Additional Government Pleader for the
Applicants/Appellants – State.

Mr. R.S.Alange for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 21st FEBRUARY, 2020

P.C.

By this First Appeal, the State Government has impugned the judgment and decree dated 23rd July, 2010 passed by the Civil Judge, Senior Division, Barshi in Land Acquisition Reference No. 92 of 2004.

2. By consent of parties, First Appeal is heard finally at the admission stage. Some of the relevant facts for the purpose of deciding this First Appeal are as under :-

3. The respondent was holding landed property bearing Gat No. 322 admeasuring 0.47 R which came to the applicants from Pimpalgaon Gaon Dhale Medium Project under L.A.Q./S.R./No.1/99. The Special Land Acquisition Officer declared award on 6th March, 2002 awarding compensation of Rs.38,075/-. The original claimants filed Land Acquisition Reference No. 92 of 2004 before the Reference

Court *inter alia* praying for Rs.2,25,000/- per hector.

4. By judgment and award dated 23rd July, 2010, the Reference Court directed the appellants to pay additional compensation of Rs.25,850/- plus 30% solatium amount of Rs.7,755/- plus 12% component amount from 28th January, 1998 till 2nd June, 2000 at Rs.7,649/-, totalling to Rs.41,254/- with interest at the rate of 9% per annum on the additional compensation for the first year and 15% per annum for subsequent years till the payment of compensation from the date of taking possession or date of award dated 2nd June, 2000.

5. Being aggrieved by the said judgment and award, the State Government has preferred this First Appeal. The original claimant did not challenge the said judgment and award.

6. Mr.Patil, learned A.G.P. for the appellants invited my attention to the findings rendered by the Reference Court and would submit that the Reference Court could not have awarded the price of acquired land at the rate of Rs.74,000/- per hector. He submits that the said enhancement was without any evidence.

7. Mr.Alange, learned counsel for the original claimants on the other hand supported his case by relying upon the findings rendered by the Reference Court. He submits that though the original claimants had claimed higher amount, the Reference Court has not allowed the entire claim made by the respondents and has reduced the claim to Rs.74,000/- per hector.

8. Learned counsel strongly placed reliance on the unreported judgment delivered on 19th June, 2019 passed by Shri K.K.Tated, J. in

case of ***The State of Maharashtra vs. Kondiba Ambadas Pawar in First Appeal No. 851 of 2015*** and would submit that after considering the facts in the said First Appeal arising out of the same village and with identical facts, this court had rejected the appeal filed by the State Government by which the State Government had impugned the compensation awarded by the Reference Court at Rs.59,000/- per hector for Jirayat land.

9. Learned counsel for the respondent strongly placed reliance on the judgment of Supreme Court in case of ***Kantabai Manibai Amin vs. Special Land Acquisition Officer, AIR 1990 SC 103*** and would submit that the Reference Court has rightly allowed 25% excess on the basis of the value determined for Jirayat land while computing compensation in respect of Bagayat land.

10. A perusal of the judgment delivered by this court in case of ***The State of Maharashtra vs. Kondiba Ambadas Pawar*** (supra) clearly indicates that the said proceedings were arising out of the land acquisition proceedings in respect of the land bearing Gat No. 318, admeasuring 0.78 R arising out of the said land. The Reference Court had enhanced the claim of the applicant in that matter at Rs.59,000/- per hector in respect of Jirayat land. Mr.Patil, learned A.G.P. is not able to distinguish the said judgment delivered by this court in case of ***The State of Maharashtra vs. Kondiba Ambadas Pawar*** (supra).

11. In my view since the rate of Rs.59,000/- per hector is already fixed by the Reference Court in respect of the land from the same village in case of Jirayat land which order is upheld by this court in the said First Appeal No.851 of 2015 after recording the detailed reasons,

the Reference Court rightly considered the price of Bagayat land at 25% over and above the rate of Jirayat land.

12. I do not find any infirmity in the impugned judgment and award rendered by the Reference Court. First appeal is devoid of merits and is accordingly dismissed. No order as to costs. In view of the dismissal of the First Appeal, Civil Application No.1731 of 2013 does not survive and is accordingly disposed of.

13. At this stage, Mr.Patil, learned A.G.P. for the appellants states that his clients would deposit the entire amount as may be computed by the Reference Court within 12 weeks from the date of such computation with interest upto the date of deposit. Statement is accepted.

14. The Reference Court is accordingly directed to compute the amount payable to the respondents under the impugned judgment and award within eight weeks from the date of respondent producing an authenticated copy of this order.

15. The State Government shall deposit the decretal amount computed with interest upto the date of deposit within 12 weeks thereof thereafter without fail. Undertaking rendered by the learned counsel is accepted.

16. The parties as well as the Reference Court to act upon the authenticated copy of this order.

[R.D.DHANUKA, J.]