

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.1489 OF 2007

1. Datta s/o. Piraji Mupde,
Age : 50 years, Occ. Agri.,
r/o. Atala, Tq. Dharmabad,
Dist. Nanded
2. Linguram s/o. Piraji Mupde,
Age : 45 years, Occ. Service,
r/o. Atala, Tq. Dharmabad,
Dist. Nanded

..Appellants

Vs.

1. The Collector,
Nanded
2. Land Acquisition Officer,
Sub-Divisional Magistrate,
Degloor, Tq. Degloor,
Nanded

..Respondents

Mr.V.S.Bedre, Advocate for appellants
Mr.S.N.Morampalle, AGP for respondents

**CORAM : R.G. AVACHAT, J.
DATE : DECEMBER 08, 2021**

ORDER :-

The challenge in this appeal is to the judgment and award dated 14.08.1996 passed by learned Civil Judge, Senior Division, Biloli in Land Acquisition Reference (LAR) No.42 of 1995. The appeal has

been preferred for enhancement of compensation awarded by the reference court.

2. The facts, giving rise to present appeal, are as under :-

The appellants were owners of the land Gat no.127 admeasuring 1 H 89 R (4 Acre 31 R), situated at village Atala, Tq.Dharmabad, Dist. Nanded. Entire land has been acquired for rehabilitation of the project affected persons. The S.L.A.O. offered compensation at the rate of Rs.46,000/- per hector. Reference Court enhanced it at Rs.60,000/- per hector, whereas the appellants had claimed compensation at the rate of Rs.60,000/- per acre.

3. Heard learned counsel appearing for the parties.

4. Learned AGP supports the impugned award.

5. The appellants relied on the sale deed (Exh.21) dated 13.04.1993. Under the said sale deed, the land admeasuring 61 R was sold for consideration of Rs.65,000/-. The reference court ignored said sale deed on the ground of it being for a smaller portion of the land. This Court fails to understand as to how it could be termed to have pertained to a small portion, since one and half acre of land has been sold. The land acquired is 4 acre 31 R. In view of

this Court, the reference Court ought to have relied on said sale instance. Moreover, the sale was executed about two years before the notification under Section 4 of the Land Acquisition Act was published. It is not stand of the respondent/ State that said sale deed was not a *bona fide* transaction. As such, the reference court, relying on the sale deed (Exh.21) should have enhanced the compensation to Rs.60,000/- per acre.

6. In view of the above, the appeal succeeds in terms of the following order:-

- (i) The appeal is allowed.
- (ii) The amount of compensation granted by the reference court is enhanced from Rs.60,000/- per hector to Rs.60,000/- per acre.
- (iii) Interest under Sections 28 and 34 of the Land Acquisition Act awarded under clauses (v) and (vi) of the impugned award, be calculated from the date of the award and not from the date of possession.
- (iv) Rest of the terms of the impugned award to stand unaltered.

[R.G. AVACHAT, J.]