

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

901 FIRST APPEAL NO.1460 OF 2018

THE STATE OF MAHARASHTRA AND ORS  
VERSUS  
KESHAV JANARDHAN VARPE

WITH

FIRST APPEAL NO.1461 OF 2018

THE STATE OF MAHARASHTRA AND ORS  
VERSUS  
BHAGWAT S/O. JANARDHAN VARPE

WITH

FIRST APPEAL NO. 1462 OF 2018

THE STATE OF MAHARASHTRA AND ORS  
VERSUS  
VITTHAL MADHAV SHINDE

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AGP for Appellant : S. S. Dande  
Advocate for Respondents – claimants: Mr. V. P. Latange

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CORAM : ANIL S. KILOR, J.  
DATE : 08-04-2021

ORDER :

1. These are the First Appeals preferred by the State of Maharashtra, Special Land Acquisition Officer and the acquiring body challenging the Judgment and Award dated 22-01-2014, passed by the learned 4<sup>th</sup> Joint Civil Judge, Senior Division at

Osmanabad in L.A.R Nos. 177 of 2010, 175 of 2010 and 339 of 2010 partly allowing the references and thereby granting enhanced compensation at the rate of Rs. 1,12,500/- per acre for their acquired land along with all the statutory benefits.

2. I have heard the learned counsels for the respective parties.

3. Brief facts of the cases are as follows;

The lands of the claimants were acquired for the purpose of Percolation Tank no. 3 at village Bavi. The compensation which was determined by the Land Acquisition Officer was Rs. 25,000/- per acre. Being dis-satisfied with the said amount of compensation, the claimants filed references under section 18 of the Land Acquisition Act for enhancement of compensation and claim thereby rate of Rs. 1,00,000/- per acre.

. The opponents – respondents opposed the prayer of the claimants for enhancement of compensation. The Learned Reference Court after scrutinizing documentary as well as oral evidence, partly allowed the References and granted the rate of Rs. 1,12,000/- per acre along with all statutory benefits.

The said Judgment and Award dated 22-01-2014 is under challenge in these appeals.

4. The learned Assistant Government Pleader appearing for the appellants submits that the compensation enhanced by the Reference Court is exorbitant and sale instance on which the Reference Court has relied upon, ought not to have been relied upon for the reason that the said sale instance was not from the same village. He further submits that the compensation determined by the Land Acquisition Officer was proper. He submits that the Judgment and Award of the Reference Court is erroneous and is not sustainable in law.

5. Per contra, learned counsel Mr. Latange, appearing for the claimants supports the Judgment and Award of Reference Court and states that the Reference Court has rightly relied upon the said sale instance Exhibit-13, and arrived at the just and fair compensation of Rs. 1,12,500/- per acre. It is submitted that the Land Acquisition Officer has not produced any contrary evidence on record or no evidence has been produced in support of the amount determined by the Land Acquisition Officer as Rs. 25,000/- per acre. The learned counsel Mr. Latange, appearing for claimants prays for dismissal of Appeals.

6. Considering the contentions of the parties, I have perused the documents on record and also gone through the Record and Proceedings which is made available for perusal. There is no

dispute that the lands acquired are of the village Bavi, whereas, the Reference Court has relied upon the sale-deed exhibit-13 which is of village Terkheda Tq. Washi Dist. Osmanabad. However, the Land Acquisition Officer has not produced even single sale instance of village Bavi and, therefore, the sale deed (Exhibit-13) wherein the land was sold for Rs. 1,50,000/- per acre in 2001, the Reference Court has deducted 25% from Rs. 1,50,000/- and arrived at the compensation of Rs. 1,12,500/- per acre for which the claimants are entitled to.

7. The Reference Court has considered all the necessary factors as per settled principle of law while determining the amount of compensation. The learned Reference Court has also considered the Judgments of the Hon'ble Supreme Court and also of High Court and after detailed discussion and even after considering the case put up by the appellants, with justifiable reasons recorded in the impugned Judgment and Order, enhanced the compensation at the rate of Rs. 1,12,500/- per acre along with all statutory benefits.

8. In that view of the matter, I do not find any error committed by the learned Reference Court and do not see any perversity in determining the amount of compensation.

9. In the circumstances, Appeals are dismissed. No order as to costs.

10. Claimants are permitted to withdraw the amount lying in this court along with interest accrued thereon, if any.

[ ANIL S. KILOR ]  
JUDGE

vdk/