

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

FIRST APPEAL NO.2614 OF 2010

Dagadu Vithal Jadhav
age 42 years, occu. Agri.,
R/o Jawalga (P), Tq. Ausa,
District Latur

... APPELLANT

VERSUS

1. State of Maharashtra
through Collector, Latur.
2. The Additional Collector,
Earthquake Resettlement,
District Latur

... RESPONDENTS

.....
Shri S.N. Patil, Advocate for appellant
Shri S.N. Morampalle, A.G.P. for respondents
.....

CORAM : R. G. AVACHAT, J.

DATE : 22nd OCTOBER, 2021

JUDGMENT :

The challenge in this appeal is to the judgment and award dated 26/7/2010, passed by II Jt. Civil Judge, Senior Division, Latur in Land Acquisition Reference (L.A.R.) No.207/2004. Vide impugned judgment and award, an amount of compensation came to be enhanced from Rs.41,000/- per hector to Rs.50,000/- per hector. The appellant, whose land has been acquired, felt it to be a case

of inadequate enhancement and has, therefore, preferred the present appeal.

2. Heard. Perused the impugned award and the material relied on. Learned counsel for the appellant seeks parity in the rate of compensation awarded by the Reference Court in L.A.R. No.851/2000, decided in October 2016. Learned A.G.P. for the respondents – State opposed the claim for parity on the ground that the land of the appellant herein was not similarly placed land, for which the compensation @ Rs.5/- per sq.ft. has been granted by the Reference Court in L.A.R. No.851/2000.

3. Considered the submissions advanced. Admittedly, the land of the appellant has been acquired for rehabilitation of the persons affected by the earthquake. Section 4 notification was issued in the Government Gazette on 28/5/1998. The award was passed in December 2000. The appellant found the amount of compensation offered by the Land Acquisition Officer to be inadequate, preferred the Land Acquisition Reference. The Reference Court enhanced the amount of compensation, as stated above i.e. from Rs.41,000/- per hector to Rs.50,000/- per hector.

4. Learned counsel for the appellant has relied on the

judgment and award dated 6/10/2016, passed by the Court of 5th Jt. Civil Judge, Senior Division, Latur in Land Acquisition Reference No.851/2000. Admittedly, the land of the appellant herein and the land of the claimant in Land Acquisition Reference No.851/2000 were situated at village Jawalga (Pomadevi), Taluka Ausa, District Latur. Both the lands along with other lands have been acquired for the purpose of rehabilitation of earthquake affected persons. The only difference between the two is that the land, subject matter of Land Acquisition Reference No.851/2000 has been acquired under the land acquisition proceedings, the notification under Section 4 whereof was published in October 1995. the appellant herein also claimed before the Reference Court that his land had N.A. potential. The Reference Court, in Land Acquisition Reference No.851/2000, enhanced the compensation to Rs.5/- per sq.ft. after deducting 40% of the acquired land towards development charges. In short, the compensation @ Rs.5/- per sq.ft. has been awarded to the extent of 60% of the land as against the entire land. Since the land of the appellant herein has been acquired for the very purpose from the very village, he needs to be granted compensation at par with the one granted in Land Acquisition Reference No.851/2000. This Court is, however, not inclined

to grant 10% hike for each year on account of the land, subject matter of the present appeal, to have been acquired two and half years after the one which was subject matter of Land Acquisition Reference No.851/2000. There is prima facie nothing to indicate that price of the land gets enhanced by 10% every year. The Court may take judicial notice of the present scenario, wherein prices of the lands are static for some period of 2 – 3 years.

5. In view of the above, the appeal partly succeeds in terms of the following order :

ORDER

- (i) The appeal is partly allowed.
- (ii) The amount of compensation awarded by the Reference Court is hereby enhanced to Rs.5/- per sq.ft.
- (iii) The amount of compensation be paid to the appellant after deducting 40% thereof towards development charges.
- (iv) Rest of the terms of the impugned award to stand unchanged.

**(R. G. AVACHAT)
JUDGE**

fmp/-