

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO. 748 OF 2016

APPELLANT: Union of India,
Through Deputy Chief Engineer (Construction),
Central Railway, Akoli, Amravati.

... Versus ...

RESPONDENTS: 1. Anil Ramchandra Chimote,
(Ori. Applicant) Aged Major, Occupation : Business,
R/o. Shrikrishna Peth, Amravati.

(Ori. Non-Applicant No.1.) 2. State of Maharashtra,
Through Collector, Amravati.

(Ori. Non-Applicant No.2.) 3. Special Land Acquisition Officer,
Minor Irrigation Works, Amravati.

Shri Anoop Parihar, Advocate for the Appellant.
Shri R.D. Dharmadhikari, Advocate for Respondent No.1.
Ms. T.H. Udeshi, AGP for Respondent Nos.2 and 3.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE OF JUDGMENT : 15th FEBRUARY, 2021

ORAL JUDGMENT:-

The Appellant – Acquiring Body has challenged the judgment and award dated 04/12/2013 passed by the Reference Court, Amravati in L.A.C. No.53/2006. By the impugned judgment, the Reference Court has enhanced the compensation at the rate of Rs.1,000/- per sq. mtr.

02] The brief facts necessary to decide this appeal are as under:

The Appellant – Acquiring Body had acquired Plot Nos.21, 25 and 26 admeasuring 9030 sq. mtr. from Survey No.7/2 of village Akoli Tehsil & District Amravati. Section 4 notification was published on 15/03/2001 and the award under Section 11 was passed on 19/05/2004. The Land Acquisition Officer awarded compensation at the rate of Rs.450/- per sq. mtr. The Respondent No.1 – original Claimant accepted the said compensation “under protest” and sought reference under Section 18 of the Land Acquisition Act, 1894.

03] Upon considering the evidence adduced by the Respondent No.1 – Claimant and particularly on relying upon the previous judgment (Exh.30) in respect of the land in the same vicinity, the Reference Court enhanced the compensation to Rs.1,000/- per sq. mtr. Being aggrieved by this judgment, the Appellant – Acquiring Body has filed this appeal under Section 54 of the Land Acquisition Act.

04] Learned Counsel for the Appellant – Acquiring Body submits that the Reference Court has erred in relying upon the judgment at Exh.30 in determining the compensation in respect of the acquired land. He submits that Land Acquisition Officer has determined the value of the land on considering all the factors such as potentiality, location, fertility of the land

etc. He submits that the rate determined by the Reference Court is unreasonable and excessive.

05] Learned Counsel for Respondent No.1 – original Claimant submits that judgment at Exh.30 relates to the land in the same vicinity, which was also acquired under the same notification. He submits that the nature of the subject land is similar to the nature of the land which was the subject-matter of the said judgment (Exh.30). He contends that the Reference Court has not committed any error in relying upon the said judgment.

06] I have perused the records and considered the submissions advanced by learned Counsel for the respective parties. The only question for determination is whether the compensation determined by the Reference Court is just and reasonable.

07] It is not in dispute that the subject Plots 21, 25 and 26 admeasuring 9030 sq. mtr. from Survey No.7/2 of village Akoli are within the limits of Amravati Municipal Corporation. It is on record that the said plots are adjoining the proposed railway station and are adjacent to Ballabh Nagar residential locality. The said plots are accessible by Akoli Amravati Main Raod. It is in the evidence of the Respondent No.1 – original Claimant that all other amenities such as petrol pump, schools, colleges, commercial estab-

lishments, industries etc. are located in the close vicinity of the acquired land. The acquired land was suitable for residential as well as for commercial purpose.

08] The Claimant had relied upon the judgment dated 03/11/2012 in L.A.C. No.47/2009 (Exh.30) to substantiate his claim for enhanced compensation. The said judgment relates to Plot No.19(B) from Survey No.20 of village Akoli, which was also acquired for the same purpose. In a reference filed by the owner of the said land, the Reference Court after considering the sale instances and the judgments had enhanced the compensation to Rs.1,000/- per sq. mtr. It is admitted that the said judgment and award has attained finality. Considering the location and similarity in the nature and potentiality of the subject land vis-a-vis the land which was the subject-matter of the L.A.C. No.47/2009, the Reference Court was justified in relying upon the previous judgment in determining the market rate of the acquired land. The impugned judgment and award does not suffer from any infirmity. The compensation awarded cannot be termed as exorbitant or unreasonable. The appeal has no merits and is accordingly dismissed.

09] The Respondent No.1 – Original Claimant is entitled to withdraw the compensation deposited by the Appellant – Acquiring Body, along with the interest accrued thereon.

10] The appeal stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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