

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2960 OF 2022

The Executive Engineer,
Minor Irrigation Division No.1,
Aurangabad

... APPELLANT

(Ori. Respondent No.2)

VERSUS

1. Gopinath Tukaram Karhale,
Age : 40 years, Occu. : Agriculture,
R/o. : Shiregaon, Tq. Gangapur,
Dist. Aurangabad

2. The State of Maharashtra
Through the S.L.A.O.,
Jaikwadi Project, Aurangabad

... RESPONDENTS

(Resp. No.1 - Ori. Claimant
& Resp. No.2-Ori.Resp. No.1)

...

Mr. S.G. Bhalerao - Advocate for Appellant
Mr. L.C. Patil - Advocate for Respondent No.1
Mr. S.N. Morampalle - AGP for Respondent No.2

....

CORAM : S.G. DIGE, J.

DATE : 12th October, 2022

JUDGMENT :

. Being aggrieved and dissatisfied by the judgment and award passed by the Joint Civil Judge, Senior Division, Vaijapur (*for short 'the Reference Court'*), the appellant –

original respondent No.2 preferred this appeal.

2. Learned Counsel for appellant submits that, house of claimant was acquired for Shilegaon Storage Tank. The Special Land Acquisition Officer (*for short 'the S.L.A.O.'*) has awarded compensation of Rs.90,530/-. Against the said compensation the claimant had filed Petition for enhancement before the Reference Court. The Reference Court has enhanced compensation to Rs.294970/-.

3. The learned Counsel for appellant further submits that, the Reference Court has enhanced compensation on the basis of sale instance dated 6th February, 1999 which is at Exh. 18, sale instance dated 15th January, 1999 which is at Exh.19 and Exh.20. The Reference Court has not considered that, the lands mentioned in said sale instances are at distance of 4 Kilometers from the acquired house, in spite of that enhancement is granted by the Reference Court, which is illegal and improper.

4. It is contention of learned Counsel for respondent No.1 that, the house property and properties of sale instances

are at distance of 2 Kilometers. The Reference Court has passed the reasoned order while enhancing the compensation. The valuation report is at Exh.24, which shows that, the value of land is more. While deciding the value of acquired house, the S.L.A.O. has not considered market value of the house which was considered by the Reference Court. The enhancement granted by the Reference Court is within four times. Out of the same acquisition in some matters appellant has not preferred appeals, wherein the compensation was enhanced within four times but in this matter the appellant has preferred appeal. The order passed by the Reference Court is legal and valid.

5. I have heard all the learned Counsel. Perused judgment and order passed by the Reference Court.

6. The Reference Court has enhanced the compensation on the basis of sale instances produced on record and valuation report at Exh.24. While enhancing the compensation the Reference Court has observed that, at the time of making valuation of the house property, the S.L.A.O.

has not considered market price of the house property. I do not find any infirmity in it. The order passed by the Reference Court is well reasoned hence, no interference is required in it. The documents which is produced by the learned Counsel for respondent No.1 are marked at Exh. X which shows that, in connected group of matters arising out of same acquisition wherein the compensation was enhanced by the Reference Court is within four times. In those matters the appellant has not preferred appeals but in the present matter appellant has preferred the appeal. Appellant being Government Authority, cannot observe the pick and choose policy when there is a Government Resolution not to file appeal when compensation is within four times and when in other connected group of matters the appellant has not preferred appeals then the question remains why present appeal is preferred. In view of the above, I pass the following order :-

ORDER

- (a) Appeal is dismissed.
- (b) No order as to costs.

[S.G. DIGE, J.]