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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12449 OF 2018

Godavari Marathwada Irrigation Corporation

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....

Mr. Vinesh C. Solshe, Advocate for the petitioner

Mrs. V. S. Chaudhari, AGP for respondent - State

Mr. P. R. Katneshwarkar h/f Mr. D. M. Kakade for respondents
No.3 and 4

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 7th JANUARY, 2022

ORDER :

1. This petition is directed against the final award under section 28-A of the Land Acquisition Act, passed by the Special Land Acquisition Officer / Sub Divisional Officer, Partur, in favour of present respondent No.3.

2. By the impugned award, respondent No.3 was awarded compensation @ Rs.4,00,000/- per Hectare for 4 Hectare land, Rs.2,00,000/- per Hectare for 1.15 Hectare land and Rs.1,00,000/- per Hectare for 12 Are land.

3. According to the petitioner, said compensation is awarded

on the basis of judgment of learned Civil Judge, Senior Division, Jalna in Land Acquisition Reference No. 223 of 2010, wherein the Reference Court has awarded compensation @ Rs.2000/- per *Are* for dry land and Rs.4000/- per *Are* for irrigated land. Since the land of respondent No.3 was seasonally irrigated and not fully irrigated, compensation @ Rs.4,00,000/- per Hectare ought not to have been awarded and respondent No.3 was entitled to compensation @ Rs.3,00,000/- per Hectare, since his land is seasonally irrigated land.

4. Learned advocate for the petitioner has taken me through the judgment of the Land Acquisition Reference No. 223 of 2010 as well as the calculations made in the said judgment and has strenuously submitted that respondent No.2 was not justified in awarding compensation @ Rs.4,00,000/- per Hectare to respondent No.3, since his land is not fully irrigated but is a seasonally irrigated land and in the judgment in LAR No.223 of 2010, compensation of Rs.4,00,000/- per Hectare was granted for fully irrigated land. According to him, at the most, compensation @ Rs.3,00,000/- per Hectare could have been granted to respondent No.3. He, therefore, submitted that the impugned award is liable to be modified to that extent.

5. Per contra, learned advocate for respondent No.3, by

relying on certain observations of the Reference Court in LAR No. 223 of 2010, submitted that respondent No.2 has rightly placed reliance on the judgment of the Reference Court and on the ground of parity, was justified in granting compensation @ Rs.4,00,000/- per Hectare to respondent No.3. Learned advocate for respondent No.3 has placed on record a copy of seven twelve extract of the acquired land of respondent No.3. He makes a statement at Bar that this seven twelve extract was produced before respondent No. 2 at the time of passing of the Award. He, therefore, supports the impugned award and states that the writ petition is devoid of any substance and the same may be dismissed.

6. It is not in dispute that the land of respondent No.3 is acquired by the same notification under which land of the petitioner in LAR No.223 of 2010 was acquired. In the said judgment, the Reference Court has considered that there was pipeline of 6000 feet in the acquired land and the said petitioner was harvesting crops like Jawar, Mug, Karadi, Sugarcane, Wheat etc. from the acquired land. The Special Land Acquisition Officer in that case considered 1 Hectare 66 *Are* portion out of land bearing Gut No.3/1 as perennially irrigated land and 85 *Are* portion as seasonally irrigated land. There was entry of Jujube

trees, one mango tree and 6000 feet pipeline, in other rights column and there was irrigation facility. Therefore, considering the availability of irrigation facilities and trees, the Reference Court held that the land of the petitioner therein was irrigated land. The Reference Court, therefore, awarded compensation @ Rs.4,000/- per *Are* for the irrigated land.

7. In the calculation column, it is mentioned for "*2 hectare 52 R seasonally irrigated land acquired by the Government X 4000 (Rate determined by this court per R)*".

8. Perusal of the seven twelve extract of the land of respondent No.3 reveals that crops like soyabean, sugar cane, wheat, karadai and turmeric were being harvested by respondent No.3 in the acquired land. It is obvious that sugar cane crop cannot be harvested without irrigation facility.

9. In view of the aforestated circumstances, respondent No.2 was justified in following the judgment in LAR No. 223 of 2010 (which is passed in favour of father of respondent No.3) and on the ground of parity, awarding compensation to the acquired land of respondent No.3 @ Rs.4,00,000/- per Hectare for 4 Hectare irrigated land (Total Rs.16,00,000/-), Rs.2,00,000/- per Hectare for 1.15 Hectare dry land (total Rs.2,30,000/-) and

Rs.1,00,000/- per Hectare for 12 *Are* uncultivable land (Total Rs.12,000/-).

10. No illegality or perversity is found in the impugned Award passed on the basis of Reference Court Award in LAR No.223 of 2010. Writ petition being devoid of any substance is hereby dismissed with no order as to costs.

[NITIN B. SURYAWANSHI]
JUDGE

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