

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

FIRST APPEAL NO. 719 OF 2014

1. Bhagwan S/o Keshavrao Chalak
Age: 61 years, Occu. Agriculture,
R/o. Rampimpalgaon,
Tal. Majalgaon, Dist. Beed
2. Ravan S/o Keshavrao Chalak
died through his legal representatives:
- 2A. Abasaheb S/o Ravan Chalak
Age Major, Occu. Agril.,
R/o. Rampimpalgaon,
Tal. Majalgaon, District Beed.
- 2B. Balasaheb S/o Ravan Chalak,
Age Major, Occu. Agril.,
R/o. Rampimpalgaon,
Tal. Majalgaon, District Beed
- 2C. Shrikrishna S/o Ravan Chalak,
Age: Major, Occu. Agril.,
R/o. Rampimpalgaon,
Tal. Majalgaon, District Beed
3. Ankush S/o Keshavrao Chalak,
Age: 50 years, Occu. Agriculture,
R/o. Rampimpalgaon,
Tal. Majalgaon, District Beed
4. Lahu S/o Keshavrao Chalak
Age 48 years, Occu. Agriculture,
R/o. Rampimpalgaon,
Tal. Majalgaon, Dist. Beed

... Appellants
[Ori. Claimants]

VERSUS

1. The State of Maharashtra
Through Special Land Acquisition Officer,
Jayakwadi Project No.3, Beed
2. The Executive Engineer
Majalgaon Canal Division No.10,
Parbhani.

... Respondents
[Ori. Respondents]

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Mr. R. G. Hange, Advocate for appellants
Mr. A. B. Chate, AGP for respondent No.1
Mr. B. R. Survase, Advocate for respondent No.2

....

CORAM : R. G. AVACHAT, J.

RESERVED ON : 23rd AUGUST, 2021

PRONOUNCED ON : 16th FEBRUARY, 2022

J U D G M E N T :-

. This is an appeal under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act of 1894'). The challenge herein is to the judgment and award dated 21.09.2013, passed by the District Judge-1, Majalgaon, District Beed, in Land Acquisition Reference (L.A.R.) No.32 of 2010 (Old LAR No.468 of 2006).

2. The agricultural lands, Survey Nos.26/AA and 283/AA, admeasuring 1 H 36 R and 00=36 R, respectively, belonged to the appellants herein. These lands came to be acquired for the purpose

of Jayakwadi Irrigation Project. Notification under Section 4 of the Act of 1894 was published way back in March 1993. The award was passed by the Special Land Acquisition Officer (S.L.A.O.) on 29.08.1997 and offered compensation at the rate of Rs.240/- and Rs. 234/- per R for the lands Survey Nos.26/AA and Survey No.283/AA, respectively. The appellants felt to have not been offered with inadequate compensation. They, therefore, received the compensation under protest and preferred the L.A.R. for enhancement. The Reference Court dismissed the Reference, mainly on the ground that the sale-deeds relied on were not the comparable sale-deeds (sale instances). In spite of availability of comparable sale instances, the appellants did not place on record any of them.

3. Learned Advocate for the appellants would submit that there was oral evidence to show that during relevant period no sale-deeds have been executed of the lands situated in the village. There is no cross examination on this point. No witness was examined on behalf of the respondent – State. The sale instances relied on by the Land Acquisition Officer, were not placed on record. The appellants had no option, but to rely on the sale-deeds Exh.27 and Exh.28 dated 30.06.1992 and 27.11.1995. The Reference Court ought to

have relied on the sale exemplar of more consideration and after necessary deductions therefrom should have considered the market value of the land acquired. The learned Advocate therefore urged for grant of compensation relying on the sale-deed dated 21.11.1995 (Exh.27) .

4. Learned Advocate for the acquiring body and the learned AGP, on the other hand, reiterated the reasons given by the Reference Court and ultimately urged for dismissal of the appeal.

5. Considered the submissions advanced. Perused the judgment and award impugned herein. Also gone through the evidence relied on. Admittedly, the agricultural lands, Survey No. 26/AA admeasuring 1H 36R and Survey No.283/AA admeasuring 00=36 R, belonging to the appellants were acquired for the purpose of Jayakwadi Project. Notification under Section 4 of the Act was published on 11.03.1993. The award came to be passed on 29.08.1997. The Land Acquisition Officer offered the compensation at the rate Rs.240/- and Rs. 234/- per R to the aforesaid lands, respectively totaling Rs. 32,640/- and Rs.8424/-.

6. The appellants claimed compensation at the rate Rs.1,250/- per R i.e. Rs. 50,000/- per Acre. One of the appellants gave his oral evidence before the Reference Court. It was specifically stated in the examination-in-chief that since the concerned village was under the command area in the year 1993-1994, there was a bar for effecting sale-deeds of agricultural lands situated within the limits of the said area/village.

Close reading of the cross examination would indicate that this piece of evidence has not been traversed. The sale instances relied on by the Land Acquisition Officer to work out amount of compensation to be offered to the appellants, were not placed on record. Therefore, what has been observed in the award with reference to those sale instances, cannot be looked into.

7. The appellants placed on record two sale exemplars (Exh.27 and Exh.28). The first one is in relation to the land situated at village Mangrul, whereat the lands acquired were situated. The said sale-deed is dated 21.11.1995 I.e.executed about 2 ½ years after publication of the notification under Section 4 of the Act of 1894. Another sale exemplar is in respect of the land situated within the village of Rampimpalgaon. It was executed in June 1992. The

same exemplar cannot be looked into, since it pertains the land situated in different village. Since there is no contra evidence on behalf of the respondents, the Reference Court ought to have relied on the sale exemplar Exh.27 and after giving appropriate deduction, should have granted compensation. The recitals of the sale-deed do indicate that the land admeasuring 2 Acres and 15 R (95 R) was sold for Rs.90,000/-. Onto one side of the land comprised in the said sale-deed, there was a land acquired by the State Government, necessarily for irrigation purpose. The Reference Court was, therefore, right in observing that there must have been substantial hike in the price of the land post declaration of the irrigation project and acquisition of the lands therefor. Although the sale price recorded in the sale-deed is Rs.90,000/-, only a sum of Rs.65,000/- was paid before the Sub-Registrar. The consideration amount of Rs.25,000/- was admitted to have been paid long back before the execution of the sale-deed. This Court is therefore not inclined to consider the entire amount of consideration quoted in the sale-deed. It is therefore taken that the land admeasuring 95R was sold for Rs.65,000/- for making it a round figure, it is taken as Rs.650/- per R. Since the sale-deed was executed 2½ years after publication

of the notification under Section 4 of the Act of 1894, around 25% thereof (i.e. of Rs.65,000/-) is deducted towards appreciation in the price at the rate 10% p.a. To be specific to make it a round figure, the compensation offered by the S.L.A.O. is enhanced to Rs.500/- per R, to be paid with all consequential benefits. With this, the First Appeal is allowed in terms of following order.

ORDER

- (i) The amount of compensation offered by the Special Land Acquisition Officer is enhanced to Rs.500/- per R i.e. Rs.20,000/- per Acre. In addition thereto, the appellants be paid 30% thereof as solatium plus 12% thereof additional component from the date of notification under Section 4 of the Act to the date of award.
- (ii) Interest at the rate of 9% be paid on the amount of compensation for the period of first year from the date of the award and for further period at the rate 15% p.a. till the entire amount of compensation is paid.
- (iii) The amount of compensation already paid/received by the appellants, shall be given due set off.

[R. G. AVACHAT, J.]