

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.195 OF 1994

The State of Maharashtra

...Appellant

Versus

Vithoba Nivrati Mali

...Respondent

....

Mr. N. B. Patil, AGP for the Appellant-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 23rd JUNE, 2022.

P.C.:-

1. This is an appeal under Section 54 of the Land Acquisition Act, 1894 assailing judgment dated 19/12/1992 passed in L.A.R. No.99 of 1991. The State Government had issued Notification under Section 4 of the Land Acquisition Act on 02/06/1988 to acquire the land for percolation tank of village Kasari Tahasil-Barsi. The Award under Section 12 of the Land Acquisition Act came to be passed on 01/06/1989. The Land Acquisition Officer categorised the land under two groups viz. Group 1 and Group 2 and awarded compensation of Rs.8000/- per hector in respect of the land, which was classified under Group 1 and Rs.9000/- per hector for land classified under Group No.2.

2. The land of the Respondent under various gat numbers also

came to be acquired for the said purpose. Not being satisfied with the quantum of compensation, the Respondents filed a reference under Section 18 of the Act. The Respondent claimed that market value of the acquired land was Rs.20,000/- per acre and demanded enhanced compensation of Rs.49,260/-. The Reference Court framed issues and upon considering the evidence on adduced by the respective parties, enhanced the compensation to Rs.11,200/- with all other statutory benefits. Being aggrieved by this order the State has preferred this appeal.

3. The records reveal that the Reference Court relied upon the evidence of PW5-Shripati and PW6- Laxman Jadhav for determining the market rate of the acquired land. These witnesses had entered into a sale transaction in respect of the land under Gat No.29, which was sold at the rate of Rs. 11,000/- per acre. The Reference Court considered the superior quantity of the acquired land vis-a-vis the sale deed and other comparable factors and determined the market rate of the acquired land at Rs.11,200/- per acre. The assessment is based on the evidence on record and does not warrant interference.

4. By challenging the said Award the State has dragged the

Respondent into the litigation even though the compensation determined by the Reference Court is very meager. The land holders, particularly the agriculturist, who are deprived of their livelihood by such acquisition cannot afford the exorbitant cost of litigation, which is much more than the amount awarded by the Land Acquisition Officer or determined by the Reference Court. The approach of the State Government in challenging the said Award is not fair and reasonable.

5. Considering the above facts and circumstances, I do not find any reason to interfere with the impugned judgment and Award. Hence, the appeal is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)