

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

FIRST APPEAL NO. 391 OF 1997

The State of Maharashtra	 Appellant
v/s.	
Shri. Suresh Sayaji Chavan	 Respondent

Ms. Tanaya Goswami, AGP for the State.
None for the Respondent.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 04th AUGUST, 2022.

P. C. :-

1. This is an Appeal under section 54 of the Land Acquisition Act directed against the judgment and award dated 28/04/1994 in Land Reference No.549/1989. By the impugned judgment, the Reference Court has determined the compensation at Rs.11,000/- per hectare with interest and other statutory benefits.

2. The brief facts necessary to decide this Appeal are as under :-

3. The State Government had acquired a portion of land admeasuring 38 Ares from Gat No.12 of Village Dhaner, Taluka Nandgaon, Dist. Nashik for the purpose of construction of minor irrigation tank at Dhaner, Tal. Nandgaon. The Notification under

Section 4 was published on 02/08/1984. The Land Acquisition Officer declared the Award on 30/10/1984 and determined the compensation at the rate of Rs.2,500/- per hectare. Being dissatisfied with the quantum of compensation, the Appellant filed reference under Section 18 of the Land Acquisition Act. The Reference Court after considering the evidence on record, enhanced the compensation to Rs.11,000/- per hectare. Being aggrieved by the enhancement, the State has filed this Appeal.

4. The short point which falls for consideration is whether the compensation awarded by the Reference Court is just and reasonable and is based on evidence on record.

5. The evidence on record reveals that the acquired land was adjoining Manmad-Nandgaon-Aurangabad Highway. The amenities such as schools, dispensary, telephone exchange and other civic amenities were available in the close vicinity of the acquired land. The case of the claimant is that the acquired land had potential value for residential cum commercial purpose. It is alleged that the rate determined by the Land Acquisition Officer is far below the market rate. The claimant had relied upon the sale deed dated 10/03/1983 at

Exhibit – 14 in respect of a field situated at village Bharadi which was sold at the rate of Rs.6,000/- per acre. The Reference Court did not relied upon the said sale deed as the said land was sold along with the well and further on the ground that it was not a transaction between a willing purchaser and a willing seller. The Respondent-claimant has also relied upon the sale deed dated 09/08/1983 at Exhibit – 16 which was sold at the rate of Rs.25,000/- per acre. The Reference Court has observed that under the said sale deed, the parties had exchanged the land and moreover, the land was purchased along with two wells and a bungalow situated therein.

6. It is well settled that in determining the market rate, some amount of guesswork is inevitable. In the instant case, the Reference Court took note of the fact that no sale instance of the land in the vicinity was available to determine the market rate of the acquired land. Nevertheless, the Reference Court considered the location, potentiality and other features of the acquired land and determined the market rate of Rs.11,000/- per hectare.

7. The area of the acquired land is 38R and the compensation payable to the claimant towards market value of the land is Rs.4,180/-.

Upon deducting the compensation determined by the LAO, the total compensation payable including the statutory benefit is Rs.6,068/-. The amount payable to the claimant is very meager. Considering this aspect as well as the GR dated 03/11/2016, I am not inclined to interfere with the impugned judgment. Hence, the Appeal is dismissed.

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JAYANI

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(SMT. ANUJA PRABHUDESSAI, J.)