

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

**919 FIRST APPEAL NO.804 OF 2021**

**SANJAY VASANT PATIL  
VERSUS  
THE STATE OF MAHARASHTRA AND ANR**

...  
Advocate for Appellant : Ms. S.A. Kale h/f. Kale Ajeet B.  
AGP for Respondents/State : Mr. A.M. Phule  
...

**CORAM : Y.G. KHOBRAGADE, J.  
DATE : 06.04.2023**

**PC.:-**

1. Heard Ms. S.A. Kale h/f. Ajeet B. Kale learned counsel appearing for the appellant and learned AGP at length at the stage of admission.
2. The appellant invoked jurisdiction of this Court under Section 96 of C.P.C. and challenged the judgment and award dated 21.01.2019 passed by the learned C.J.S.D., Bhusawal in LAR No.81/2014 and thereby rejected the reference of the appellant under Section 18 of the Land Acquisition Act, 1894.
3. In short it is the case of the appellant that in pursuance of notification under Section 6 of the Land Acquisition Act published in the Government gazette on 20.12.199 his land gut no.14 ad-measuring 0H 80 R with 0.02 R pot kharab land situated at Manpur, Taluka Bhusawal, District

Jalgaon has been acquired by the acquiring body-respondent no.2. Thereafter, the respondent no.1 learned Special Land Acquisition Officer passed an award on 19.12.1991 vide S.R. No.28/88 as per Section 11 of the Act and determined compensation of the acquired land. Being dissatisfied by the said award passed by the respondent no.1, the appellant questioned the same in LAR No.81/2014 and prayed for enhancement of compensation with statutory benefits. The respondents resisted claim of the appellant by filing written statement at Exh.5 & 7. Respondent no.2 contended that the learned SLAO has taken into consideration all the factors while assessing market value of the acquired land and passed a reasoned order, however, the appellant failed to adduced any evidence to prove market price of the acquired land. The learned counsel appearing for the appellant canvassed that while passing the impugned judgment and award the SLAO-respondent no.2 failed to consider the provisions of Section 23, 28 and 34 of the Act. So also, while determining the compensation the sale-deeds were discarded. Therefore, the impugned judgment and award is perverse, illegal, bad in law and prayed for quashing and setting aside the same.

4. Per contra, the learned AGP canvassed that the appellant failed to enter into witness box and no any documentary evidence is produced on record to prove the appropriate price of the acquired land and in absence of

evidence the learned trial Court recorded findings, hence, no grounds are set out to interfere with the findings and prayed for dismissal of the appeal at the stage of admission.

5. It is not in dispute that, on 07.03.1989, the notification under Section 4 of the Act was published in the Government gazette and the appellant's land ad-measuring 0H 80 R and 0.02 R out of gut no.14 situated at village Manpur, Tq. Bhusawal, District Jalgaon has been acquired for the public project. It is also not in dispute that, on 19.12.1991, the SLAO passed an award vide S,R.No.28/88 under Section 11 of the Act and determined market value of the acquired land to the tune of Rs.11,508/- with statutory interest. Accordingly, the compensation of land received by the appellant under protest and had challenged the said award under Section 18 of the Act and claimed enhancement of additional compensation to the tune of Rs.49,492/- on the ground that the market value of the acquired land was Rs.75,000/- per hectare which comes to Rs.60,000/- for his 0H 80 R.

6. It is submitted that though the appellant prayed for enhancement of compensation and acquired land @ Rs.75,000/- per hectare, however, the appellant-claimant failed to lead any evidence and also not enter into witness box and the said proceeding was before the learned trial Court since more than 15 years. It is not the case of the appellant that the learned trial Court

did not provide sufficient opportunity to lead evidence and matter was simply adjourned on various dates but the appellant failed to adduce evidence and nothing is brought on record to prove that the acquired land was fetching price @ Rs.75,000/- per hectare at the relevant time.

7. Therefore, in absence of evidence the learned trial Court refused to enhance the compensation for acquired land. Therefore, I do not find that the impugned order passed by the learned trial Court is perverse, illegal, bad in law or any substantial grounds are set out to interfere with the findings. Therefore, present appeal is liable to be dismissed at the stage of admission itself.

8. Accordingly, First Appeal No.804/2021 is hereby dismissed. No order as to costs.

**[Y.G. KHOBRADE, J.]**