

Ghuge

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

FIRST APPEAL NO.695 OF 2022

Executive Engineer, Nandur
Madhyameshwar Project, Division
Nashik. ... Appellant

V/s.

Trambak Savliram Gowardhane and
Ors. ... Respondents

**WITH
INTERIM APPLICATION NO.3356 OF 2021
WITH
INTERIM APPLICATION NO.2161 OF 2022
WITH
FIRST APPEAL NO.696 OF 2022**

Executive Engineer, Nandur
Madhyameshwar Project, Division
Nashik. ... Appellant

V/s.

Savliram Dhondiram Gowardhane and
Ors. ... Respondents

Mr. Chaitrali A. Deshmukh for the appellant.

Mr. Sachin Gite for the respondent No.1.

Ms. Tanaya Gosawami AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 15, 2023

P.C.:

1. The acquiring body has challenged the Judgment and Award passed by learned Reference Court under Section 18 of the Land Acquisition Act, 1894 enhancing the compensation in favour of the claimant.

2. The acquired land is situated as Sanjegaon, Tal Igatpuri, Dist. Nashik. The land was acquired on 31st July, 2006. Notification under Section 4(1) of the Land Acquisition Act was issued on 6th August, 2006. Notification under Section 6 of the Land Acquisition Act, 1894 was issued. The Special Land Acquisition Officer passed award under Section 11 of the Land Acquisition Act, 1894 on 9th November, 2008. The Special Land Acquisition Officer fixed total compensation in the amount of Rs.60,353/- (Rupees Sixty Thousand Three Hundred Fifty Three Only). The applicant, therefore, filed reference under Section 18 of the Land Acquisition Act, 1894 seeking enhancement of the compensation at Rs.1,86,000/- (Rupees One Lakh Eighty Six Thousand Only).

3. The learned Reference Court framed necessary issues including issue of limitation and the quantum of compensation. The learned Reference Court recorded a finding that the reference was filed within the period of limitation. Insofar, as the quantum of compensation is concerned, reliance was placed on the award passed by the learned Reference Court in Reference Application Nos.449 to 451 of 2010 and connected matter.

4. The learned Reference Court in paragraph 17 considered the Judgment in Reference Application Nos.449 to 451 of 2010 and connected matters. On perusal of the judgment of Reference Application Nos.449 to 451 of 2010 it appears that the lands which were subject matter of the reference were acquired for the said project. The applicant has proved that the lands which are subject matter of present application and which were subject matter of Reference Application Nos.449 to 451 of 2010 were situated in

same village. The award is also common. On perusal of the judgment in Reference Application Nos.449 to 451 of 2010 it declares that the reference court fixed compensation of Jirayat Land at Rs.6,26,000/- (Rupees Six Lakh Twenty Six Thousand Only) per hector and rate of Rs.7,82,000/- (Rupees Seven Lakh Eighty Two Thousand Only) was decided for semi-irrigated land. Rate of Rs. 9,39,000/- (Rupees Nine Lakh Thirty Nine Thousand Only) per hector was decided for irrigated land. On perusal of revenue record in the form of 7/12 extract and it appears that the learned Reference Court based on entries in 7/12 extract recorded a finding that the land in question is semi-irrigated land cultivated by appellant for his paddy craft. The lands which were subject matter of Judgment in Reference Application Nos.449 to 451 of 2010, were used for cultivation of paddy craft. Since the material on record shows that the land in question and the lands which were subject matter of Reference Application Nos.449 to 451 of 2010 were situated in same village covered by the same award and were similar in advantage and disadvantages, the learned Reference Court has rightly awarded compensation as the same rate as that of rate decided in Reference Application Nos.449 to 451 of 2010.

5. In that view of the matter, there is neither a question of fact nor a question of law is involved.
6. The First Appeals stand dismissed. No costs.
7. In view of the dismissal of the First Appeal, the Interim Applications does not survive and are disposed of accordingly.

(AMIT BORKAR, J.)