

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO.621 OF 2013

Maharashtra Industrial Development
Corporation having its office at
Marol Industrial Estate, Andheri East,
Mumbai and having its Regional Office at
By Pass Road, Amravati, through its
Chief Executive Officer.

Ori. Deft.No.3
(On RA)

APPELLANT

// VERSUS //

Shri Sheshrao Baliram Mehere
(Since dead through LR's)

Ori. Claimants

1. Smt. Pramilabai wd/o Sheshrao Mehere,
Aged about 59 years, Occu. Cultivator,
2. Sou. Chhaya Bhojraj Bhojane,
Aged about 38 years,
3. Asha Ashok Hole,
Aged about 36 years,
4. Sunita Ashok Pohokar,
Aged about 31 years,
5. Nita Vilas Shevalkar,
Aged about 29 years,
6. Ku. Archana d/o Sheshrao Mehere,
Aged about 27 years,
7. Amol s/o Sheshrao Mehere,
Aged about 27 years,
8. Ku. Alka d/o Sheshrao Mehere,
Aged about 25 years,

Respondent No.1, 6, 7 and 8 are
R/o Mahuli Jahangir, Respondent
No.2 is R/o Shivangaon, Mozari,

Taluka Tiosa, District : Amravati.

9. State of Maharashtra,
Through Collector, Amravati. Ori. Deft. No.1.

10. The Sub-Divisional Officer Cum
Land Acquisition Officer, Amravati. Ori. Deft. No.2.

RESPONDENTS

Mr. Sagdeo, Advocate h/f Mr. M. M. Agnihotri, Advocate for appellant.
Mr. S. D. Babrekar, Advocate for respondent Nos.1 to 8.
Mr. M. A. Kadu, AGP for respondent Nos.9 and 10.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 01/02/2023

ORAL JUDGMENT

1. By way of this appeal, the appellant Maharashtra Industrial Development Corporation through its Chief Executive Officer has challenged the judgment and award passed by 3rd Joint Civil Judge Senior Division, Amravati, by which the compensation at the rate of Rs.85,000/- per hectare after deducting the amount of compensation already paid have been granted along with all other statutory benefits.

2. As per the contention of the original claimants, original claimants are the owners of Gat No.313 of village Talkhanda admeasuring 2.03 hectares. Said land has been acquired by the respondent Nos.9 and 10 for the appellant in Land Acquisition Case No.1 to 12/47/93-94 of village Nangaon Peth, Sawardi etc. Notification

under Section 32 (1) of M.I.D.C. Act was published on 29.6.1995. The award was published on 20.3.1997 by which Land Acquisition Officer has awarded the compensation at the rate of Rs.44,193/- per hectare.

3. Being aggrieved with the said, the original claimants have filed Land Acquisition Case No.71/1999. As per the contention of the original claimants, the land of the claimants is having high potential, fertility and good quality and would fetch price of Rs.2,50,000/- per hectare as per the market rate. Therefore, they are entitled for the compensation at a higher rate.

4. Said contention is resisted by the present appellant as well as the respondent Nos.9 and 10. After recording the evidence and after hearing both the sides, the reference Court has awarded compensation on the basis and sale instances produced before it at the rate of Rs.85,000/- per hectare.

5. Being aggrieved and dissatisfied with the said contention, the appellant has preferred this appeal on the ground that the reference Court has granted the compensation which is exorbitant and excessive one and interference by this Court is called for.

6. Heard Mr. Sagdeo, learned Advocate holding for Mr. Agnihotri, learned Advocate for the appellant, Mr. Babrekar, learned Advocate for the respondent Nos.1 to 8 and Mr. Kadu, learned AGP for the respondent Nos.9 and 10.

7. The learned Advocate for the appellant has submitted that the amount of compensation is determined by the reference Court is unsustainable being exorbitant. It is further submitted that the reference Court had not considered the evidence on record and sale instances and awarded the compensation at a higher rate. On the other side, Mr. Babrekar, learned Advocate for the respondent Nos.1 to 8 submitted that the claimants have produced on record the sale instances during his evidence.

8. He further placed reliance on the decision of this Court in **C.A.F. No.2525 of 2015 in First Appeal No.486 of 2011 (Maharashtra Industrial Development Corporation, through its Chief Executive Officer Vs. Jugalkishor s/o Hiralal Bajaj and others)** by which this Court has awarded the rate at the rate of Rs.89,000/- per hectare. He further submitted that the land of the present claimants is of same quality of having same potential and fertility and therefore, the claimants are entitled to receive the enhance rate of compensation as per the decision

of this Court in First Appeal No.486 of 2011. Mr. Babrekar, learned Advocate for the respondent Nos.1 to 8 further submitted that the award passed by the land reference Court is just and proper and no interference is called for.

9. Perused the record and the evidence on record, it is apparent that the reference Court has granted the compensation on the basis of the evidence i.e. sale instances and come to the conclusion that considering the market value claimants are entitled to receive the compensation at the rate of Rs.85,000/- per hectare. The determination of the market value is considered by the reference Court on the basis of evidence. The land involved in the present appeal is also of the same quality from the same village of same fertility and same potential.

10. Though Mr. Sagdeo, learned Advocate for the appellant vehemently submitted that the compensation amount at the rate of Rs.85,000/- is exorbitant and excessive one, but he could not point out from the evidence that the award passed by the reference Court is without the evidence or on the basis of assumptions. In fact, the evidence on record shows that the reference Court has considered the entire evidence, and thereafter come to the conclusion that the claimants are entitled to receive the compensation at the rate of Rs.85,000/- in

view of the market value at the relevant time. Mr. Babrekar, learned Advocate for the respondent Nos.1 to 8 placed reliance on the decision of this Court in First Appeal No.486 of 2011. Wherein also landed property is of the same village having same potential and of same quality. This Court has considered the market price and dismissed the appeal of the appellant i.e. Maharashtra Industrial Development Corporation. The land of the claimant is situated at village Talkhanda and the reference Court has come to the conclusion regarding the rate of the market value on the basis of the evidence. The learned Advocate for the claimant rightly submitted that in First Appeal No.486 of 2011 as well as in First Appeal No.734 of 2008 and other connected matters the rate awarded by the reference Court is just and proper. Similarly, in the present case also, the reference Court has awarded the compensation on the basis of the evidence.

11. In view of the above, there is no reason to interfere with the impugned award. Thus, the appeal has no merits and deserves to be dismissed.

12. In the circumstances, the appeal is dismissed. The parties to bear their own costs.

13. The amount deposited by the appellant be given to the respondent Nos.1 to 8 on due identification and verification.

14. By passing order on Civil Application No.183 of 2023, this Court has already permitted the respondent Nos.1 to 8 to withdraw the amount through respondent No.1 Pramilabai Sheshrao Mehere. The final order passed by this Court will not come into the way of withdrawal of the amount.

15. In view of that original claimants are at liberty to withdraw balance 50% of amount along with the accrued interest by filing appropriate application.

(URMILA JOSHI-PHALKE, J.)

Sarkate.