

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

FIRST APPEAL NO. 529 OF 2009

APPELLANT:

Ori. Deft. No.3.

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.

...VERSUS...

RESPONDENTS

Ori. Claimant

On (RA)

1] Jaikishor Radhavalabh Sardar,
Aged about 45 years, R/o Shrikrishnapeth,
Amravati.

Ori. Deft. No.1.

2] State of Maharashtra,
through Collector, Amravati.

Ori. Deft. No.2.

3] Sub-Divisional Officer and Special Land
Acquisition Officer, Amravati.

Mr Parth Sagdeo, advocate holding for Mr M.M. Agnihotri,
advocate for the appellant.

Mr J.T. Gilda, Advocate for respondent No. 1.

Mr M.A. Kadu, AGP for respondent Nos. 2 and 3.

CORAM : URMILA JOSHI-PHALKE, J. .

DATE : 13/03/2023

ORAL JUDGMENT :

1. Heard learned counsel appearing for the parties.
2. The present appeal is preferred under Section 54 of the Land Acquisition Act, 1894 by the appellant/Maharashtra Industrial Development Corporation (M.I.D.C.) against the judgment and award passed by the District Judge, Amravati, dated 26/03/2008 in LAC No. 54/1998. (The parties are here-in-after referred as per their original nomenclature.).
3. Respondent no.1 was the owner of the land survey No. 30/05 of village Narayanpur, admeasuring 4 H 49 R. The said land was acquired by the Government under LAC No.1-12 /LAQ -47/ Nandgaonpeth/1993-1994. The notification under Section 32 (2) of the M.I.D.C Act was published on 14/01/1994 and notification under Section 32(1) was published on 2/06/1994.
4. As per the contention of respondent no.1 that the Land Acquisition Officer had not considered the potentiality and fertility of the land and awarded inadequate compensation at the rate of Rs. 37,900/- per hectare and Rs.1500/- for 0.76 R of land which was the Pot-Kharab.
5. Being aggrieved and dissatisfied with the said judgment and award, respondent no.1 preferred the reference before the District Court, Amravati. The learned reference Court after considering the evidence on record, awarded the compensation at the rate of Rs. 1,00,000/- per hectare.
6. Being aggrieved and dissatisfied with the judgment and award passed by the learned Reference Court, the present appeal is

preferred by the appellant/MIDC on the ground that, the learned trial Court had not considered the evidence on record and awarded exorbitant and excessive compensation. The fertility and quality of the land was also not considered while awarding the compensation, therefore, the compensation awarded is liable to be set aside.

7. Mr Sagdeo, advocate h/f Mr M.A. Agnihotri, learned advocate for the appellant submitted that the reference Court was not justified in enhancing the amount of compensation. The learned reference Court has relied upon the various sale instances which are from the village Rustampur and Jamthi i.e. adjoining villages. The sale instances that have been taken into consideration could not be said to be relevant for awarding the compensation, while enhancing the amount, especially when the lands are acquired from the village Narayanpur.

8. Thus, the evidence on record is not sufficient and not supported by any substantial evidence and therefore, the judgment and award passed by the learned Reference Court deserves to be set aside.

9. On the other hand, learned advocate Mr G.T. Gilda for the respondent No. 1 submitted that, the issue is already covered by the judgment of this Court in First Appeal Nos. 3/2011 and 1093/2007 by which, this Court has awarded the compensation at the rate of Rs. 1,05,000/- per hectare. This fact is admitted by the learned advocate Mr P. Sagdeo for the appellant.

10. Mr G.T. Gilda, learned advocate for the respondent No.1

further submitted by referring to the adjudication in First Appeal Nos. 3/2011 and 1093/2007 with regard to the acquisitions of the land from the same village wherein the Court has observed that the claimants are entitled to receive the compensation at the rate of Rs.1,05,000/- per hectare. Thus, the compensation awarded by the learned Reference Court, cannot be said to be exorbitant and excessive one and enhancement granted by the Court below was justified and no interference is called for.

11. After hearing both the sides at length and after perusal of the record, following point arises for consideration :-

a) Whether the amount of compensation as granted by the learned Reference Court deserves to be interfered?

12. This Court has considered the entire evidence on record and observed that the lands which are acquired in adjacent villages were granted compensation of Rs. 1,05,000/- per hectare to Rs. 1,30,000/- per hectare. The judgment of the reference Court in para-9 also referred to the various sale-instances i.e. it appears that dry crop land admeasuring 1H 36 R of village Narayanpur was sold for Rs. 50,000/- on 24/04/1995, land admeasuring 1H 62 R was transferred at Rs. 1,82,500/- on 13/03/1996, land admeasuring 1H 25R was sold for Rs. 1,03,375/-. On 06/01/1997, land admeasuring 40 R was sold for Rs.35,000/-, land admeasuring 1 H 70 R was sold for 2,96,000/- on 08/09/1997. Thus, various sale instances are given in evidence before reference Court and some of these sale instances pertain to the period after publication of notice under Section 32(2) and the rate of the dry crop land in average at the

time of Government Notification appears to be around Rs. 1,00,000/-.

13. After considering the said sale-instances and after considering the evidence on record, the learned Reference Court has awarded the compensation at the rate of Rs. 1,00,000/- per hectare which was the average market rate for the dry crop land, at the time of notification.

14. Thus, after considering all these materials on record, the learned Reference Court has awarded the compensation at the rate of Rs. 1,00,000/- per hectare. This Court has also accepted the same rate in the First Appeal Nos. 3/2011 and 1093/2007 and awarded the compensation at the rate of Rs. 1,05,000/- per hectare.

15. Thus, the learned advocate for the claimant is justified in referring the decision given in the First Appeal No. 3/2011 dated on 31/01/2019 along with First Appeal No. 1093/2007. In view of that, the grounds raised by the appellant in the appeal appears to be not justified one. Thus, the appeal has no merit and liable to be dismissed.

16. In view of above, the point raised is answered accordingly by holding that the compensation granted by the learned reference Court is just and reasonable one and no interference is called for. As a result of the aforesaid discussion, the following order is passed :-

- a) The first appeal is **dismissed** with no order as to costs.
- b) The appellant has already deposited the amount of

compensation along with accrued interest. Respondent No.1 is permitted to withdraw the said amount.

- c) The amount be disbursed to the claimant on due identification and verification till realization of the amount.

JUDGE

RKN