



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

FIRST APPEAL NO. 846 OF 2012

- 1] Udhav s/o. Nivartti Kumbhare,
Age 53 years, Occupation : agriculture,
R/o. Dongraj, Taluka Chakur,
District Latur
.. **APPELLANT**
[Original claimants]

VERSUS

- 1] The State of Maharashtra
Through Collector, Latur.
- 2] The Executive Engineer,
[Local Sector], Latur.
- 3] Special Land Acquisition Officer,
Swarna Project, Latur. .. **RESPONDENTS**

...
Mr.H.B.Nandagavale, Advocate holding for
Mr.V.G.Sakolkar, Advocate for the appellant
Adv.P.R.Bharaswadkar, AGP for the respondent-State
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 22.02.2024

ORAL JUDGMENT :

- 1] By way of present first appeal, the appellant is
challenging judgment and award dated 31.10.2011 passed
by the Ad-hoc District Judge-1, Latur in LAR No.145 of
2009.

Brief facts leading to filing present First Appeal can be summarized as under:

2] The land admeasuring 2 Hectar 05 R. situated at village Dongraj, Taluka Chakur, District Latur in Survey No.82 was acquired. By notification under Section 4 of the Land Acquisition Act dated 16.11.2006, the land was acquired for the purpose of construction of Dongraj Percolation tank No.3 at village Dongraj and possession of the land was taken on 17.06.2006. The Special Land Acquisition Officer, by award dated 30.11.2007, had granted compensation @ Rs.1840/- per R. for the land acquired considering it as Jirayat land. The appellant filed reference before the Reference Court. The Reference Court granted compensation @ Rs.2500/- per R. for the acquired land. The evidence which was available before the Reference Court was the deposition of PW-1 and sale instance at Exh.18. As per the sale deed, the land out of Gat No.115/2 admeasuring 20 R. was sold for consideration of Rs.1,00,000/- on 27.07.2000 at village Shelgaon, Taluka

Chakur and there is no evidence filed by the respondent-State in the case. The Reference Court, by award dated 31.10.2011 at para 16 and 17 has observed as under :

16. The claimants have relied the sale instance Exh. 18. The said sale deed reveals that, the land out of Gat No.115/2 admeasuring 20 R., was sold for Rs.1,00,000/- on 27.07.2000. The said sale deed is of the land situated at village Shelgaon, Tq.Chakur. The claimants have not produced the village map to show the distance between lands acquired and the lands sold under Exh.18. It is the contention of the respondents that, Shelgaon is at the distance of 5 to 7 kilometers from Dongraj. However, except the say of PW.No.1 there is no other evidence in that regard. Considering the sale instance Exh.18, coupled with the circumstances of the matter, even assuming for a moment that Shelgaon is at the distance of 5 to 7 kilometers, I am of the opinion that, the compensation awarded by L.A.O., at the rate of Rs.1,840/- per R., i.e. , Rs.73,600/- per acre appears to be very inadequate.

17. The lands acquired were dry lands. Hence, I am of the opinion that, the market value of the lands acquired would have been at least Rs.1,00,000/- per acre i.e., Rs.2,500/- per R. at the time of acquisition. Therefore, I am of the opinion that the market value of the lands acquired will have to be held at the rate of Rs.1,00,000/- per acre being dry lands at the time of acquisition and thereby compensation awarded by L.A.O., appears to be inadequate.

3] The Reference Court has held that Shelgaon is at the distance of 5 to 7 kilometers from the acquired land and that except the say of PW-1, there is no other evidence in that regard, so also, there is no village map to show the distance between acquired land and sold land at Exh.18.

4] The learned counsel for the appellant – original claimant submits that both the lands i.e. land at Shelgaon and land at Dongraj, are identical in nature and that although they are from the different villages, they are adjacent villages. He further submits that the price of the land have been increased and that considering the land at Exh.18 is sold in the year 2000, as such, the learned counsel submits that the land of the appellant should have been granted compensation at least Rs.5000/- per R. taking into consideration totality of the facts situation in the matter.

5] *Per contra*, the learned AGP submits that the person, who has sold the land at Exh.18 on account of certain loan transactions, which is reflected in the sale deed itself. She further submits that in the sale deed, it is

mentioned that vendor had taken some money of Rs.1,00,000/- from the vendee. As such, for repayment of the said amount, the sale deed is executed and thus sale deed does not show true value of the land.

6] However, taking into consideration that Exh.18 is sale deed of the adjacent village which is about 5 to 7 kilometers from the acquired land and the evidence of the claimant that both the lands are comparable and considering the said fact, the Reference Court has granted compensation of Rs.2500/- per R. Even the Reference Court stated that the compensation granted by the Land Acquisition Officer @ Rs.1840/- per R. is very inadequate. Exh.18 is the land admesuring 20 R., which is sold for consideration of Rs.1 lac i.e. Rs.5000/- per R. It is sold by the vendor as the vendor has taken loan from the vendee. In such situation, it could be distress sale and it cannot be said that the land is sold for higher price. There is no other evidence on record produced by the respondent – State. In absence of any other material, sale instance at Exh.18

become guiding factor. Taking into consideration totality of the situation, I deem it appropriate that I grant compensation of Rs.4000/- per R. for the acquired land. All other statutory benefits to work out accordingly.

7] In view of above, Appeal is disposed of.

[ARUN R. PEDNEKER]
JUDGE

DDC