



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 987 OF 2017

Rameshwar Ramchandra Biyani
Age: 72 years, Occ. Agricultural
R/o. Ambad, Taluka- Ambad,
District- Jalna.

....APPELLANT
[Orig. Claimant]

VERSUS

1. The State Of Maharashtra
Through, Collector Jalna.
2. The Special Land Acquisition Officer,
(B & C), Jalna At present: The Sub
Divisional Officer, Parture, District- Jalna.
3. The Executive Engineer
Minor Irrigation Division,
(Local Sector), Jalna.

.....RESPONDENTS
[Orig. Respondents]

.....
Mr. D. M. Pingale, Advocate For Appellant
Mr. D.J. Patil, AGP for State

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 1st OCTOBER, 2024

JUDGMENT :

1. Heard.
2. **Admit.** Taken up for final hearing with the consent of parties.
3. This appeal filed by appellant/claimant under Section

Bhagyawant Punde

54 of Land Acquisition Act, challenges judgment and award dated 03.10.2016 passed by learned Civil Judge, Senior Division, Jalna, in Land Acquisition Reference No. 27 of 2011.

4. Facts which are not disputed are that, 95 Are land of claimant out of Gut No. 74 situated at Ambad, Taluka- Ambad, District- Jalna was acquired for percolation tank No. 6. Notification under Section 4 was published on 10.06.2002. Final award was passed on 10.05.2004. Special Land Acquisition Officer (SLAO) has awarded compensation at Rs. 2100/- per Are. Claimant sought enhanced compensation by filing reference. Reference Court has partly allowed the reference and awarded compensation of Rs. 4,25,225/- along with statutory benefits. Claimant has filed the present appeal for enhancement of compensation.

5. Heard learned advocate for claimant and learned AGP for State. Perused the record.

6. Learned advocate for claimant submits that Reference Court has erred in relying on sale instance Exhibit-33. In fact sale instance Exhibit-34 ought to have been relied upon by the Reference Court. In letter (Exhibit-16) SLAO has mentioned that since acquired land comes in green zone, its

market value is Rs. 210/- per sq.meter. However, SLAO has granted compensation at Rs. 2100/- per Are, which is grossly inadequate.

7. Learned AGP, on the other hand, supported the impugned judgment and award stating that material placed on record is properly appreciated by the Reference Court.

8. Admittedly, acquired land of claimant was irrigated land wherein claimant was taking crops like sweet lime, cotton, Jawar and one well was situated in the said land and it was in the green zone.

9. Evidence of SLAO is recorded in the reference and he has admitted that, in letter (Exhibit-16) he had arrived at market value of acquired land of Rs. 210/- per Sq.meter as the said land comes under the green zone.

10. In the Reference Court following three sale instances were relied upon by the claimants;

- a) By sale instance Exhibit-14, Plot No. 12-B, admeasuring 311.63 Sq.meter was sold for a consideration of Rs. 89,000/- (Rs. 285 per Sq. Meter) on 20.08.2001.
- b) By Sale instance Exhibit-33, Plot No. 101, admeasuring 1519 Sq. meter was sold for a consideration of Rs. 1,52,000/-

(Rs. 100 per Sq. meter) on 05.06.2003.

c) By Sale instance Exhibit-34, 28 Are land along with well out of Gut No. 100 was sold for a consideration of Rs. 6,92,000/- (Rs. 247.14 per Sq. meter).

11. Sale instances at Exhibit-14 and 33 are in respect of plots, which are of smaller area. The Reference Court has committed an error in relying on these sale instances ignoring the fact that they are of plots. The Reference Court further committed an error in deducting development charges from the compensation amount, ignoring the fact that acquired land comes under the green zone and same cannot be developed. Reliance placed by the Reference Court in ***Saibanna 'Dead' by LR. Vs. Assistant Commissioner and Land Acquisition Officer***, (2010) 2 MAH LJ 172 is misplaced and misconceived. Same is not applicable to the facts of the present case.

12. Admittedly, sale instance at Exhibit-34 is in respect of sale of 28 Are irrigated land from the vicinity by which land was sold at Rs. 247.14 Sq.meter. This sale instance ought to have been relied upon by the Reference Court, which is comparable to the acquired land.

13. As 95 Are land of claimant is acquired and sale instance at Exhibit-34 is of smaller area i.e. 28 Are, it would be appropriate to deduct 10% from the compensation amount. Claimant is therefore entitled for compensation @ Rs. 24,714/- per Are i.e. (95 Are x 24714), Rs. 23,47,830/-. After deducting 10% from compensation (Rs. 2,34,783/-) claimant is entitled for compensation of Rs. 21,13,047/- (23,47,830 - 2,34,783). Reference Court has awarded compensation of Rs. 4,25,225/-, therefore, claimant is entitled for enhanced compensation of Rs. 16,87,822/-.

14. In the result, following order is passed.

ORDER

- (I) First Appeal is partly allowed with proportionate costs.
- (II) Claimant is entitled for enhanced compensation of Rs. 16,87,822/- with statutory benefits to be paid by acquiring body within 12 weeks from the date of uploading of this judgment.
- (III) Claimant to pay additional Court fees as per rules.

[NITIN B. SURYAWANSHI, J.]