



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 721 OF 2015

1. The State of Maharashtra
Through the Collector, Latur
2. The Executive Engineer
(Local Sector), Dist. Latur

... Appellants
[Ori. Respondents]

Versus

Hanmant s/o Wangji Devkate
Age: 55 yrs., Occu. Agril.,
R/o. Dongargaon, Tq. Jalkot,
Dist. Latur

... Respondent
[Original Claimant]

....

Mr. D. B. Bhangе AGP for appellants - State
Mr. H. B. Nandgavale, Advocate h/f Mr. V. G. Sakolkar, Advocate
for respondent

....

CORAM : Y. G. KHOBRAGADE, J.

DATE : 18th APRIL 2024

ORDER :-

1. Heard at length Mr. Bhangе, the learned AGP
appearing on behalf of appellants and Mr. Nandgavale, the
learned Counsel holding for Mr. Sakolkar, the learned Counsel for
respondent.

2. In present appeal the appellants Acquiring Body is challenging the Judgment and Award dated 11.12.2012, passed by the learned Civil Judge, Sr. Div., Udgir in L.A.R. No.378 of 2010 (Old No.328 of 2003).

3. The learned A.G.P. canvassed that on 03.05.2001, a notification under Section 4 of the Land Acquisition Act, was published for acquisition of land bearing Survey Nos. 15/3 and 92 of village Dongargaon, Tq. Jalkot, Dist. Latur, for construction of percolation tank. However, the Acquiring Body/ present appellants taken possession of land of occupant on 20.11.1997, prior to publication of notice by private negotiations on assurance of payment of compensation to the respondent. The Special Land Acquisition Officer passed an award on 07.10.2002 and determined the compensation at the rate of Rs.390/- and 429/- per R. Since inadequate compensation granted, hence, the Respondent/claimant made reference before the learned Civil Judge, Senior Division, under Section 18 of the Land Acquisition Act.

The learned AGP canvassed that while enhancing compensation, the learned reference Court has considered the sale-

deed Exh.15 to show the market value of the land of village Malhipparga at the rate Rs.7111/- per R and granted compensation to the tune of Rs.2300/- per Guntha, equivalent to Rs.96,000/- per Acre for the acquired land of the claimant/present respondent, which is exorbitant, hence, prayed for quash and set aside the same.

4. Needless to say that on 07.10.2002, the learned Special Land Acquisition Officer has passed an award holding that the market value of the land of the present respondent/original claimant is Rs.390/- and Rs.429/- per R, as the acquired land was not fertile. However, the respondent/original claimant made reference and claimed Rs.1,00,000/- per Acre and prayed for enhancement of compensation as his land is fertile and deep black cotton soil.

5. The present appellants/original respondents filed their say at Exh.6 and thereby admitted about acquisition of the respondent's/original claimant's land for the purpose of percolation tank at village Dongargaon. The appellants/Acquiring Body contended that the acquired lands were medium quality and was located in interior area. After considering potentiality of the acquired land as well as sale transactions of other lands in the said village, the

Special Land Acquisition Officer granted proper compensation as per the market value of the lands. Therefore, the claimant is not entitled for enhancement of the compensation.

6. On the basis of rival pleadings, the learned reference Court framed the issues. In order to prove the market value of the acquired lands, the claimant examined himself, so also produced various documentary evidence on record including sale-deed dated 29.11.1999 Exh. 17, sale instances as well as the certified copies of the judgment and award in similar proceeding in L.A.R. No.430 of 2007 dated 22.02.2008 at Exh.18 passed by the learned Civil Judge, Senior Division, Ahmednagar camp at Udgir and Award dated 07.10.2002 at Exh.15.

7. After hearing both the sides and considering oral as well as documentary evidence, the learned reference Court passed the impugned Judgment and Award dated 11.12.2012 and granted enhanced compensation at the rate of Rs. 2300/- per Guntha equivalent to Rs.96,000/- per Acre for the acquired land of the respondent/original claimant. So also, the original claimant is held entitled for 30% solatium on enhanced compensation under Section

23 (2) of the Land Acquisition Act, and statutory benefits i.e. 12% increase with effect from 26.05.2001 to 25.09.2002 for 16 months under Section 23 (1-A) of the Land Acquisition Act on enhanced compensation and 9% interest p. a. with effect from 20.11.1997 to 19.11.1998 and thereafter granted interest at the rate 15% p. a. from 20.11.1998 till realization of the compensation under Section 28 of the Land Acquisition Act.

8. On perusal of the impugned Judgment and Award, it appears that the respondent/original claimant has proved sale-deed Exh.19 dated 29.11.1999 and copy of Award dated 07.10.2002 Exh.15 which proves the market prices of lands of the village Malhipparga and after considering the same, the learned reference Court granted enhanced compensation at the rate of Rs. 2300/- per Guntha equivalent to Rs.96,000/- per Acre for the acquired lands, which does not appears exorbitant, illegal and bad in law. The claimant has filed Pursis stating that, the acquiring body deposited entire compensation amount before the reference Court long back and said amount already withdrawn by the him. Hence award already been satisfied. In view of above discussion I do not find any reasons to interfere with the findings of the learned reference Court.

9. In view of above discussion, present First Appeal is dismissed. No Order as to Cost.

[Y. G. KHOBRADE, J.]

SMS