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26fa2015.20

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

26 FIRST APPEAL NO. 2015 OF 2020

DEORAO RAMBHAU SUBHEDAR

....Appellants

VERSUS

THE STATE OF MAHARASHTRA AND ANR

.....Respondents

AND

FIRST APPEAL NO. 2016 OF 2020

DHONDIRAM EKNATH SUBHEDAR

.....Appellants

VERSUS

THE STATE OF MAHARASHTRA AND ANR

.....Respondents

Mr. S. S. Manale, Advocate for the appellants

Mr. R. B. Deshpande, Advocate for the respondent No.2

Mr. R. K. Ingole, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 26th SEPTEMBER, 2024

P. C.

1. Heard the parties.

2. In this appeal a short question is involved about the rate of compensation granted to the appellant towards

acquisition of his land by the respondent.

3. The learned advocate for the appellant submits that the present appellant had filed LAR No.1608/1990 in FA/2015/2020, LAR No. 1147/1990 in FA/2016/2020 & LAR No.1609/1990 in FA/2017/2020 respectively. The learned reference court enhanced the amount and granted rate of Rs.26,250/- per Hectare for acquired land. He submits that whereas for the lands under the same acquisition proceeding i.e. file No.1981/LNQ/CR-4 the court has granted compensation of a higher rate in LAR i.e. 7/1991 in the case of Sampati Hazare and LAR No. 8/1991 in the case of Waman Baburao @ Bapurao Hazare through LRs wherein the court granted compensation @ Rs.30,000/- per Acre for the acquired land by the judgment and award dated 19-09-2009. He submits that the lands acquired in the present appeals and those LAR Nos.7/1991 & 8/1991 are from the same project and are acquired under the same notification. The respondents acquiring body by judgments in LAR No. 7/1991 and 8/1991 even paid the compensation to the

claimants therein. He further pointed out that the lands of the appellants are also acquired from the same notification and still the judgments in LAR Nos.7/1991 and 8/1991 were not considered by the reference court. He further submits that in view of the fact that the respondents have acquiesced the rate awarded in other cases, it was necessary for the reference to award the same rate to the present appellants. He thus prayed for allowing the appeals.

4. Mr. Deshpande, learned advocate for the acquiring body vehemently opposed the appeal. He submits that the sale deeds considered in LAR No. 7/1991 and 8/1991 are the sale deeds from the different village. While deciding the LARs subject matter of the present appeals the learned reference court has rightly considered the judgment in reference Nos. 7/1991 and 8/1991 and specifically considered that the sale deeds relied upon in those cases were from the different village. When the villages are different, there is no question of applying the same rate while deciding the LARs. He, thus, opposed the appeals. He

submits that no interference is called for.

5. This court has gone through the copy of an award wherein the claims of Sampati Hazare and Waman Hazare appeared at Sr. Nos.6 and 38 who had filed LAR No.7/1991 and 8/1991 whereas the names of the present appellants appears Sr. 7 as well as 11 and 28 of the appeals and 37 and 38.

6. In view of the acquiescence of the judgment in land reference No.7/1991 and 8/1991 this court is inclined to allow the appeal in view of the judgment of the Hon'ble Supreme Court in the case of Bayaji Tatya Kalunge Vs State of Maharashtra reported in 2007(2) ALL MR 316 & in the case of Shivappa Etc Etc. Vs The Chief Engineer and others reported in 2023 LiveLaw (SC) 312. In view of the same, following order:-

ORDER

- a] The appeals are allowed.
- b] The award be modified.

c] The respondents are directed to award the compensation @ Rs.75000/- per Hectare to the present appellants/ori. Claimants alongwith interest from the date of award in view of the judgment in the case of State of Maharashtra Vs Kailash Shiva Rangari reported in 2016 (3) Mh.L.J. 457.

d] It is further made clear that the appellants shall not be entitled to get any interest for delayed period.

e] Decree be drawn up accordingly.

f] With this the appeals stand disposed off.
checked

[KISHORE C. SANT, J.]