



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

18 FIRST APPEAL NO. 3131 OF 2023

WITH CIVIL APPLICATION NO. 772 OF 2022

IN FA/3131/2023

WITH FA/3130/2023 WITH CA/767/2022 IN FA/3130/2023

WITH FA/3132/2023 WITH CA/769/2022 WITH

CA/770/2022 IN FA/3132/2023

THE EX. ENGINEER, IRRI. PRO. STRENGTHENING DIV.

OMERGA AND ORS

VERSUS

ARUN MURLIDHAR JADHAV

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Advocate for Appellant : Mr. Bhalerao Sudhir G.

Appearance of Advocate Mr. Rahul A. Tambe – Discharged.

AGP for Appellants-State : Mrs. M. L. Sangit.

Advocate for Respondent : Mr. Vivekanad B. Deshmukh.

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CORAM : S. G. MEHARE, J.

DATE : 30.01.2024

PER COURT :-

1. Not on board. Taken on board.
2. Heard the learned counsels for the respective parties.
3. Issue notice to the respondents.
4. Learned counsel Mr. Deshmukh waives service of notice for the respondents.
5. Learned counsel for the appellants-acquiring body submits that the Land Acquisition Officer had determined the compensation of the land for Rs.13,000/- per acre. However, the Reference Court has exorbitantly exceeded it to

Rs.1,02,235/- per acre. The Reference Court has incorrectly awarded the interest from the date of the notification under Section 4. It has considered the sale instances from the another village though the sale instances from the same village were available. The sale instances which were relied upon by the Reference Court were after the date of the notification under Section 4. So such sale deeds were obviously for the high rates. In such circumstances, the execution of the impugned awards is liable to be stayed. However, it being a money decree, the appellants are ready to deposit 50% compensation of the impugned awards.

6. Per contra, learned counsel for the claimants submits that the SLAO has deliberately not considered the material and determined the lesser value/price of the land. The factors/components as provided under the Land Acquisition Act for determining the price, were not properly appreciated. It was a mechanical award. The interest component was also incorrectly considered. The claimants are the land owners. They have lost their fields and yet not received a single penny. They are deprived of their source of livelihood. The Reference Court did not pass the award exorbitantly. Those were rational, just and proper. In a similarly situated cases, this

Court (Coram : R. G. Avachat, J.) has directed the appellants to deposit 100% of the amount.

7. The main contention of the learned counsel for the appellants is that there is a vast difference in the compensation determined by the SLAO and the Reference Court. There are various components to be considered while determining the price. There is no upper limit for enhancing compensation against the compensation determined by the SLAO. It is a matter of appreciation of the evidence. Hence, this Court is of the view that the stay may be granted subject to depositing 100% of the amount of compensation as per the impugned awards. Hence, the following order :

ORDER

- (i) Civil Applications for stay stand allowed on the condition that the applicants/appellants shall deposit 100% of the compensation amount of the impugned awards within twelve (12) weeks from today.
- (ii) There shall be no execution of the impugned awards till the amount is deposited.
- (iii) Call R and P

(S. G. MEHARE, J.)

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