

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.684 OF 2003
IN
LAND ACQUISITION REFERENCE NO.49 OF 1994

The State of Maharashtra
Through the Special Land Acquisition Officer,
Upper Godavari Project, Karanjwan Dam, Nashik : Appellant

Vs.

Shri. Jagannath Sakharam Bhoye & Ors. : Respondents

Mr. A. R. Patil, AGP for the State.

CORAM : KISHORE C. SANT, J.

DATE : 26TH MARCH, 2024

PC. :

1. Heard.

2. This Appeal is preferred by the State challenging Judgment & Award dated 2nd November, 2001 passed by the Learned Joint District Judge, Nashik in Land Reference No.49 of 1994. Learned District Judge by way of the impugned Judgment & Award has enhanced the amount of compensation from Rs.3,401/- to Rs.43,375/- for the land admeasuring 34.7 R of the Respondents/Claimants.

The facts in short are as under:-

3. The Claimants were the owners of land Gut No.82 situated at village Harangaon, Tal. Peth, Dist. Nashik. The SLAO published a notification under Section 4 in a Maharashtra Government Gazette dated 1/4/1993. Award came to be declared on 31/3/1994. The Claimants were not present at the time of award. A notice therefore was served under Section 12(2) of the Act asking to Claimants to remain present on 26/4/1994 to receive the compensation. Claimants received the amount under protest and filed a reference.

4. Learned SLAO granted a rate of Rs.9,800/- per hectare and granted compensation of Rs.3401/-. It is the case of the Claimants that the land was Bagayat Land and would fetch higher amount. Whereas the case of the SLAO was that while passing the award he has taken into consideration the fair market value of the land. Land is considered as Bagayat Land. There is no need to enhance the amount.

5. The Claimants in support of the prayer examined Claimant No.1 namely Jagan Sakharam Bhoje at Exhibit-18. He deposed that the market rate in the village was Rs.1,25,000/- per hectare. Nothing effectively taken in the cross-examination by the government.

6. The next witness No.2 Janardan Haribhau Jadhav is a

purchaser of a land from Gut No.50 from village Asarbari. He purchased the land 95 R for Rs.36,000/-. He submitted that the market rate prevailing in the adjoining villages is Rs.1,25,000/- per hectare.

7. Learned Reference Court after hearing the matter concluded on the basis of evidence of witness No.2 that village Asarbari and Harangaon are adjoining villages their boundaries are abutting to each other. The land for Janardan was hardly 1 km. away from the land of the Claimants. Both the lands are fertile lands, which are required to be considered as Bagayat land. The Court also considered the entries in the revenue record showing that the Claimants used to grow Kharip crops as well as Rabbi crops. They used to grow Paddy, Wheat and Warai crops. Learned Reference Court thus came to conclusion that the compensation awarded was inadequate and held that compensation requires to be awarded taking the rate as Rs.1,25,000/- per hectare and allowed reference.

8. Learned AGP Mr. Patil argued the appeal, he submits that there is no documentary evidence produced on record by the Claimants in support of the reference. The witness No.2 has given the details of the land from another village. Claimants have not shown any other sale instances from which the land is acquired. He submits that rate awarded is more

than 12 to 13 times of the rate awarded by the SLAO which is exorbitant. He thus prays to allow the Appeal.

9. It is seen that the amount enhanced is only Rs. 43,000/-, at any rate the difference is only of around Rs.40,000/- for the land of 34.7R. If the SLAO had granted rate as per the market value, he could have laid the evidence before the Court by producing satisfactory evidence. The SLAO except cross-examining the witnesses has not produced any independent evidence. In such circumstances this Court does not find any error committed by the Reference Court in accepting the case of the Claimants and enhancing the amount of compensation.

10. This Court thus finds that no case is made out to allow the Appeal calling interference with the impugned Judgment & Order.

11. There is no merit in the Appeal the Appeal is therefore dismissed. No order as to costs.

(KISHORE C. SANT, J.)