

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1595 OF 2008**

The State Of Maharashtra.

...Appellant.

Versus

Shri.Kisan Nana Zankar (Since Deceased)

Through His Legal Heirs

1A.Kumar Kisanrao Tajanpure and Ors.

...Respondents

Mr. A.R. Patil, Addl. G.P. for Appellant-State.

Ms. Rukmini Khairnar i/b Pramod Joshi, for Respondents.

CORAM : M.M. SATHAYE, J.

DATE : 25th JANUARY, 2024

P.C. :

1. Heard learned AGP for the Appellant/State and learned counsel for the Respondents.

2. This is an Appeal filed under Section 54 of the Land Acquisition Act, 1894 (for short, "the said Act") challenging the Judgment and Order dated 07.04.1995 passed by Joint District Judge, Nashik (the Reference Court) in group of Land References including the subject matter Land Reference No. 508 of 1989. By the said impugned Order, the Reference Court has held that the Respondents-Claimants are entitled to additional compensation to be calculated at a particular rate for particular type of land. The claimants are also held entitled to 30 % solatium and 12% additional component. Statutory interest of 9% p.a. for first year and 15% p.a.

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from the second year is also granted.

3. Few facts necessary for disposal of this Appeal are as under. The subject matter lands at Village Bharvir were acquired by State for Vaitarna Hydro Electric Project / Kadwa Medium Project. The notification under section 4 of the said Act was published on 31.03.1983. The Special Land Acquisition Officer (for short "SLAO") passed award granting meagre amount of Rs. 17,100/- to the Respondent Original Claimant, which was challenged by filing aforesaid Land Reference under Section 18 of the said Act. The Reference Court, after hearing both sides and on appreciation of evidence has enhanced it to Rs. 55,860/-.

4. The learned AGP appearing for the State has assailed the impugned Judgment and order on various grounds as raised in the Appeal memo. It is submitted that the Reference Court was not justified in granting the additional compensation. It is further contended that sale instances relied upon by the Respondents-Claimants should not have been relied upon. On the other hand, learned counsel for the Respondents-Claimants supported the impugned Judgment and Order.

5. I have carefully considered the submissions and perused the impugned Judgment and Order. It shows that the Reference Court has taken into consideration relevant dates vis-a-vis sale instances as also that the subject matter lands were jirayat lands (non-irrigated) and accordingly has reduced the amount by 20% while arriving at compensation payable.

6. In the aforesaid facts and circumstances, considering that both amount granted by SLAO as well as enhanced amount granted by Reference Court are meager amounts and that the amount of enhancement is based on valid reasons based on appreciation of evidence, I do not find any reason to interfere with the impugned Judgment and Order passed by the Reference Court.

7. Hence the Appeal is dismissed. No order as to costs. In view of the dismissal of Appeal, the Respondent/s/Claimant/s or their legal heirs as the case may be, is/are at liberty to withdraw the amount of compensation, if deposited by the State in the Reference Court along with accrued interest, if not already withdrawn. Needless to mention that the impugned Judgment and order becomes executable.

8. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)