



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH

FIRST APPEAL NO. 813 OF 2009

Maharashtra Industrial Development Corporation
having its office at Marol Industrial Estate,
Andheri East, Mumbai and having its
Regional Office at By Pass Road, Amravati,
through its Chief Executive Officer.

...APPELLANT

Versus

1. Madhusudhan Rameshwar Agrawal,
aged adult, Occ. Agriculturist and
Businessman, R/o Akola,
Radhe Nagar, Opp. Supt. Of Police Office,
Akola.
2. State of Maharashtra, Sub-Divisional Officer
and Special Land Acquisition Officer,
Akola.

...RESPONDENTS

Shri Parth Sagdeo h/f Shri M.M. Agnihotri, Counsel for the
appellant.
Ms D.I. Charlewar, A.G.P for respondent no.2.
None for respondent no.1.

CORAM : ANIL L. PANSARE, J.

ARGUMENTS WERE HEARD ON : JANUARY 5, 2024

JUDGMENT IS PRONOUNCED ON : JANUARY 8, 2024

JUDGMENT :

The appellant – Maharashtra Industrial
Development Corporation (in short “MIDC”) is aggrieved by
the award and decree dated 19/1/2009 passed by the District

Judge – 2, Akola in Land Acquisition Case No. 349/1997. Respondent no.1 is the original claimant and respondent no.2 is the Special Land Acquisition Officer, Akola (LAO).

2] Respondent no.1 has, before the Court below, filed reference under Section 34 of the Maharashtra Industrial Development Act, 1961 (in short “Act of 1961”) read with Section 18 of the Land Acquisition Act, 1894.

3] Respondent no.1 is the owner of land bearing Gat No. 171, admeasuring 1 hectare, situated at Village – Kumbhari. The Notification under Section 32(2) of the Act of 1961 was published on 13/8/1992 and the award came to be passed on 20/3/1997. The LAO granted compensation @ Rs.50,000/- per hectare. The Reference Court has enhanced the compensation @ 49,485/- per hectare, meaning thereby that the compensation was granted @ Rs.50,000/- + Rs.49,485/- = Rs.99,485/- per hectare.

4] Having heard both the sides and having gone through the record, it appears that the Court below has taken note of the sale instance of Survey No. 94 admeasuring 0.121

are situated at Village – Kumbhari. This land was sold for Rs.1,50,000/-. It means that the rate per hectare was Rs.1,23,200/-.

5] The learned Counsel for the appellant has invited my attention to the judgment dated 29/3/2016 passed by this Court in First Appeal No. 3/2007. The facts are identical. The Notification and award of the LAO in the said case so also in this case are same. The subject matter in the First Appeal was the land bearing Survey No. 189, admeasuring 3 hectare 31 are. This Court noted that the adjoining lands bearing Survey Nos. 181 to 188 and 190 were awarded compensation @ Rs.70,000/- per hectare. The Court found the compensation @ Rs.70,000/- per hectare to be justified.

6] The learned Counsel for the appellant submits that the land under question and the lands referred to in the aforesaid judgment are in close proximity. He further submits that the land bearing Survey No.94 is located beyond the Survey Numbers referred to hereinabove. He further submits that the land bearing Gat No. 94 was admeasuring only 0.121

are and, therefore, the sale consideration would always be on a higher side than the land admeasuring larger area. The learned Counsel has rightly argued that since the adjoining lands have been awarded compensation @ Rs.70,000/- per hectare, which has attained finality, the justified compensation for the land under question should be the same, i.e., Rs.70,000/- per hectare.

7] Ms D.I. Charlewar, learned A.G.P submits that appropriate orders may be passed considering the judgment of this Court in First Appeal No. 3/2007.

8] Thus, considering the fact that all the lands in the adjoining Survey Numbers have been granted compensation @ Rs.70,000/- per hectare, the land under question should fetch similar such value.

9] The Reference Court has awarded Rs.95,000/- per hectare. However, considering the fact that the First Appellate Court has finalized the rate of compensation @ Rs.70,000/- per hectare for the adjoining lands, which decision has attained finality, the order passed by the Reference Court granting

compensation @ Rs.99,485/- per hectare is liable to be set aside. Hence, the following order :

ORDER

- i] The appeal is partly allowed.
- ii] The award and decree dated 19/1/2009 passed by the District Judge – 2, Akola in Land Acquisition Case No. 349/1997 is quashed and set aside to the extent of enhancement of the compensation @ Rs.49,485/- per hectare. The enhancement is modified as under.
- iii] Respondent no.1 is entitled for the enhanced compensation of Rs.20,000/- per hectare which means $\text{Rs.50,000/-} + \text{Rs.20,000/-} = \text{Rs.70,000/-}$ per hectare for the land bearing Gat No. 171, admeasuring 1 hectare, situated at Village – Kumbhari.
- iv] Rest of the order passed by the Reference Court stands intact.
- 10] The First Appeal is disposed of in the above terms.

JUDGE