



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH

FIRST APPEAL NO. 935 OF 2009

1. Jiwansingh s/o Kisansingh Yaduwanshi,
aged about 45 years, Occ. Cultivator.
2. Dilipsingh s/o Kisansingh Yaduwanshi,
aged about 37 years.
3. Vijaysingh s/o Kisansingh Yaduwanshi,
aged about 30 years.
4. Sumersingh s/o Kisansingh Yaduwanshi,
aged about 30 years, Occ. Cultivator.

All Residing at Babhali, Post and Tq. Daryapur,
District – Amravati.

...APPELLANTS

Versus

1. State of Maharashtra,
through Collector, Amravati,
Tq. and District – Amravati.
2. The Land Acquisition Officer
and S.D.O., Daryapur,
District – Amravati.
3. The Managing Director,
M.I.D.C., Mumbai.

...RESPONDENTS

WITH FIRST APPEAL NO. 914 OF 2013

Ganeshsingh S/o Kisansingh Yaduwanshi (dead)
through his legal representatives

1. Meenabai wd/o Ganeshsingh Yaduwanshi,
aged about 65 years, Occ. Housewife.

2. Rajendra s/o Ganeshsingh Yaduwanshi,
aged about 37 years, Occ. Service.
3. Rajani Ganeshsingh Yaduwanshi,
aged about 42 years.
4. Sunita Ganeshsingh Yaduwanshi,
aged about 39 years.
5. Sandhya Mohansingh Thakur,
aged about 43 years.

All are R/o Babhali, Tal. Daryapur,
District – Amravati.

...APPELLANTS

Versus

1. State of Maharashtra,
through Collector, Amravati,
Tq. and District – Amravati.
2. The Land Acquisition Officer
and S.D.O., Daryapur,
District – Amravati.
3. The Managing Director,
M.I.D.C., Mumbai, Mahakali Enclave,
Marol Industrial Estate, Andheri (East),
Mumbai.

...RESPONDENTS

WITH FIRST APPEAL NO. 937 OF 2009

Sumersingh s/o Kisansingh Yaduwanshi,
aged about 50 years, Occ. Cultivator,
R/o Babhali, Post and Tq. Daryapur,
District – Amravati.

...APPELLANT

Versus

1. State of Maharashtra,

through Collector, Amravati,
Tq. and District – Amravati.

2. The Land Acquisition Officers
and S.D.O., Daryapur,
District – Amravati.

3. The Managing Director,
M.I.D.C., Mumbai.

...RESPONDENTS

Shri V.G. Palshikar, Counsel for the appellants.

Ms H.S. Dhande, A.G.P. for respondent nos. 1 and 2.

Shri M.M. Agnihotri with Shri Najeeb Shaikh, Counsel for
respondent no.3.

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CORAM : ANIL L. PANSARE, J.

DATE : FEBRUARY 28, 2024

ORAL JUDGMENT :

The appellants are aggrieved by the common judgment and award passed by the Reference Court in Land Acquisition cases. The lands belonging to the appellants have been acquired by the respondent – M.I.D.C.

2] Land bearing Survey No. 194 admeasuring 0.83 R is the subject matter of First Appeal No. 935/2009, land bearing Survey No. 194 admeasuring 1 hectare 97 R is the subject matter of First Appeal No. 914/2013 and land bearing

Survey No. 197/2 admeasuring 1 hectare 71 R is the subject matter of First Appeal No. 937/2009.

3] The Notification under Section 4(1) of the Land Acquisition Act, 1894 was published on 1/6/1989 in the official gazette. The Land Acquisition Officer (L.A.O.) has passed award on 1/9/1992. The L.A.O. has granted compensation @ Rs.13,500/- per hectare. The Reference Court has enhanced the compensation to Rs.32,000/- per hectare. The appellants are aggrieved by the award enhancing the amount and hence the present appeals.

4] The learned Counsel for the appellants has placed reliance upon the decision in L.A.C. No. 8/1989 decided on 10/8/2007 in which the land situated in the same Village, i.e., Babhali, where the lands under question are situated, was acquired for irrigation project and the land owner was paid compensation @ Rs.70/- per square meter. The learned Counsel for the appellants submits that this land and the acquired lands under question are situated on the same road,

i.e., Daryapur – Anjangaon highway. The learned Counsel states that distance between the two lands is only one kilometer. The acquired lands had potential of non-agricultural use because a School, run by the Municipal Council, is situated in close proximity of the acquired lands. The lands are situated in the outskirts of Daryapur Municipal Council and, therefore, could have easily fetched value of Rs.1,25,000/- per hectare.

5] As against, Shri Agnihotri, learned Counsel for the M.I.D.C. has invited my attention to the order passed by the Reference Court. It has noted that the acquired lands are adjacent to the municipal locality and, therefore, these lands will fetch enhanced compensation. On the point of compensation awarded in L.A.C. No. 8/1989, the Reference Court has noted that in the said case, the amount of compensation has been awarded at Rs.70/- per square meter. The Court further noted that the land in L.A.C. No. 8/1989 was situated within the territorial area of the Municipal Council, Daryapur as against the acquired lands, which are situated at the outskirts of the Municipal Council, Daryapur.

6] Thus, the learned Counsel is right in contending that these two lands are incomparable and, therefore, will not fetch same rate. There is no evidence to even suggest that both the lands have same potential. He submits that the Reference Court has thus rightly refused to award compensation in terms of the judgment passed in L.A.C. No. 8/1989.

7] It is well settled that burden is always on the claimants to prove the market value and the Court should adopt realistic standards and pragmatic approach in valuation of the lands. The Hon'ble Apex Court has, in various cases, held that the Court cannot adopt the principle that entire lands in the Village shall be treated as one unit and the compensation shall uniformly be determined on that basis. The Court held that in one Village, no two lands command same market value.

8] Thus, merely because the land in L.A.C. No. 8/1989 and the acquired lands are/were situated on Daryapur – Anjangaon highway, considering the distance between the two lands being one kilometer, the acquired lands would not attract

same value. The Reference Court has rightly refused to extend benefit of the award passed in L.A.C. No. 8/1989.

9] I do not find any error in the judgment passed by the Reference Court. There is no merit in the appeals. The same are accordingly dismissed.

JUDGE

Sumit