



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

FIRST APPEAL NO. 44 OF 2024

APPELLANT : Suresh S/o. Pralhad Talware, Aged
 about : Major, Occ : Agriculture, R/o.
 Kohala, Tah. : Ner, Dist. : Yavatmal.

//VERSUS//

RESPONDENTS : 1. The State of Maharashtra, through
 Collector, Yavatmal.

2. The Special Land Acquisition Officer,
 Minor Irrigation Works Division
 No.2, Yavatmal, Tah. & Dist. :
 Yavatmal.

3. The Executive Engineer, Kohla Project
 Yavatmal, Tah. & Dist. : Yavatmal.

Mr. N.M. Kolhe, Advocate for the Appellant.
 Ms. S.N. Thakur, AGP for Respondent Nos.1 & 2.
 Mr. N.M. Gaidhane, Advocate for Respondent No.3.

CORAM : G. A. SANAP, J.
DATED : 11th MARCH, 2024.

ORAL JUDGMENT

. ADMIT. Heard finally with the consent of learned
 advocates for the parties.

02] In this appeal, challenge is to the judgment and award
 dated 4th February, 2020, passed by learned Civil Judge (Senior

Division), Yavatmal (for short 'the Reference Court'), whereby the reference filed by the appellant was partly allowed and the compensation was enhanced.

03] The house of the appellant, situated on Plot No.88/2, area 65 sq. mtr. with a construction admeasuring 30.37 sq. mtr. at village Kohala, Tah. Ner, Dist. Yavatmal, was acquired for Kohla Dam Submergence Area by respondent No.3. Notice under Section 4 of the Land Acquisition Act, 1894, was published on 29th July, 2004. The award was passed on 24th October, 2007. The Land Acquisition Officer awarded the compensation @ Rs.230/- per sq. mtr. for open plot and @ Rs.935/- per sq. mtr. for construction. The appellant contended that this compensation was not just, proper, and reasonable. He, therefore, filed a reference. Learned Reference Court enhanced the compensation for the land from Rs.230/- to Rs.650/- per sq. mtr. and for the construction from Rs.935/- to Rs.3,000/- per sq. mtr. The appellant is aggrieved by this judgment and award. It is contended that the enhancement granted was not just, proper, and reasonable. According to the appellant, the rate for the open plot was Rs.1,500/- per sq. mtr. and for the construction was Rs.4,000/- per sq. mtr.

04] The reference was opposed by the respondents, contending that the compensation awarded was just, proper, and reasonable.

05] The appellant examined himself as PW-1. He has examined the valuer, Mr. Sunil Chadkapure, as PW-2. The respondents did not examine any witness. On consideration of the evidence, the enhancement was made, as above, by the Reference Court.

06] I have heard Mr. N.M. Kolhe, learned advocate for the appellant, Ms. S.N. Thakur, learned AGP for respondent Nos.1 and 2, and Mr. N.M. Gaidhane, learned advocate for respondent No.3. Perused the record and proceedings.

07] Following point falls for my determination:

1. Whether the compensation enhanced by the Reference Court is just, proper, and reasonable ?

08] Learned advocate for the appellant submitted that the Reference Court has failed to take into consideration the report of the valuer. Learned advocate submitted that the property was

situated at village Kohala, which is hardly at a distance of 7 km. from Ner a taluka place. Learned advocate submitted that the sale deed of Plot No.1-A, situated at Mouza Ner-Nawabpur, has not been properly appreciated by the Reference Court. Learned advocate, in short, submitted that the appellant, by adducing the evidence of the valuer, has proved that he is entitled to get the compensation @ Rs.1,500/- per sq. mtr for the plot and Rs.3,500/- for the construction.

09] Learned advocates for the respondents submitted that the report submitted by the valuer cannot be accepted as gospel truth, inasmuch as the report is lacking on various aspects which have been admitted by the valuer in his cross-examination. Learned advocates submitted that the sale deed of the plot situated at Mouza Ner-Nawabpur has been properly appreciated.

10] I have gone through the record and proceedings. The valuer has admitted certain things in his cross-examination. In my view, those facts admitted by him in his cross-examination have been properly appreciated. He has admitted that he did not issue notice to the government officials before carrying out the inspection. He has admitted that copy of the CSR for the

prevailing rate was not attached to the report. He has also admitted that he did not obtain the documents about the year and type of construction. He has stated that he has not taken photograph of the house. He has admitted that village Kohala is at a distance of 6-7 km. from Ner Taluka. He has stated that Ner is a market place for the village Kohala. He has stated that he has considered the sale deed of the plot situated at Ner for arriving at the market price of the plot and the construction, but the said sale deed was not attached to the report.

11] Learned Reference Court has taken the evidence of the appellant and the report of the valuer into consideration. Learned Reference Court, on threadbare analysis, has partly allowed the reference. Learned Reference Court has taken into consideration the consequences of the change of house and the feelings of the person with regard to the residential house. The enhancement granted by the Reference Court is three times more than the compensation determined by the Land Acquisition Officer. The report of the valuer cannot be accepted as gospel truth. Learned Reference Court has considered the report of the valuer in juxtaposition with the admissions given by the valuer in his cross-examination. In my view, therefore, the submissions advanced on

behalf of the appellant that the enhancement granted by the Reference Court is not just, proper, and reasonable cannot be accepted.

12] On going through the evidence, I am satisfied that learned Reference Court has determined the market price of the plot as well as of the construction. As such, I record my finding on the above point in the affirmative. As such, the appeal is **dismissed**.
No order as to costs.

(G. A. SANAP, J.)

Vijay