



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

FIRST APPEAL NO. 968 OF 2012

APPELLANT : Vidarbha Irrigation Development Corporation, through its Executive Engineer, Minor Irrigation Division No.2, Chikhali, Buldhana.

//VERSUS//

RESPONDENTS : 1. Subhash Narayan, Aged about 56 years, Occupation : Agriculturist, R/o. Kurdi, Tq. & Dist. Buldhana.
 2. The Special Land Acquisition Officer, Minor Irrigation Works, Buldhana.

Mr. J.B. Kasat, Advocate for the Appellant.

Mr. R.B. Dhore, Advocate with Mr. A.B. Kale, Advocate for Respondent No.1.

Mr. Ganesh Umale, AGP for Respondent No.2.

CORAM : G. A. SANAP, J.

DATED : 27th MARCH, 2024.

ORAL JUDGMENT

. In this appeal, challenge is to the judgment and award dated 24th December, 2010, passed by learned Joint Civil Judge (Senior Division), Buldhana (for short, “the Reference Court”), whereby the reference filed by respondent No.1/claimant for enhancement of compensation was partly allowed.

02] The land, belonging to respondent No.1, bearing Gat No.217, area 1H 54R, was acquired for the construction of Kardi Dam. Section 4 Land Acquisition Act, 1894 Notification was published on 16th September, 1993. The Land Acquisition Officer passed the award on 27th March, 1996. The Land Acquisition Officer awarded the compensation @ Rs.26,000/- per hectare.

03] Respondent No.1 filed the reference before the Collector, Buldhana. The Collector, Buldhana, made over the reference to the Civil Court. It is the case of respondent No.1 that his land was irrigated. According to him, the price of the land determined by the Land Acquisition Officer was inadequate. According to him, the market price of the acquired land was more than Rs.3,00,000/- per hectare. The Reference Court, on the basis of the evidence, partly allowed the reference and enhanced the compensation from Rs.26,000/- per hectare to Rs.2,80,000/- per hectare.

04] The appellant/Acquiring Body, being aggrieved by this judgment and award, has filed the appeal.

05] I have heard learned advocates for the parties. Perused the record and proceedings.

06] Following point falls for my determination:

(a) Whether the compensation awarded by the Reference Court in respect of the acquired land is just, proper, and reasonable ?

07] Learned advocate for the appellant submitted that the compensation in respect of the acquired land enhanced by the Reference Court is excessive and exorbitant. Learned advocate submitted that there is ample evidence to show that the sale deeds relied upon as an exemplar have not been properly appreciated by the Reference Court. Learned advocate submitted that the sale deed of the land bearing Gat No.211, Exh.26, was not properly appreciated. Learned advocate submitted that it was seasonally irrigated land, but the Reference Court has treated the said land as dry crop land. Learned advocate further submitted that the sale deed at Exh.25 in respect of the land of respondent No.1 could not have been taken into consideration at all for the purpose of determining the compensation. Learned advocate submitted that, as per sale deed at Exh.24, 20R land out of Gat No.215 was transferred on 28th March, 1990, for a sum of Rs.30,000/-. Learned advocate submitted that this land, which is the subject matter of sale deed at Exh.24, has been treated as irrigated land by a

Co-ordinate Bench of this Court while deciding *Cross objection No.38/2013 in First Appeal No.970/2008 [Krushna s/o. Vishwanath Sananse (since dead) through his legal heirs Raju s/o. Krushna Sananse and Ors. Vs. The State of Maharashtra, through the Collector, Buldhana, decided on 13.12.2019]*. Learned advocate submitted that, in any case, the compensation enhanced by the Reference Court is excessive and exorbitant. Learned advocate submitted that, in any case, the compensation in respect of the acquired land would not have been more than Rs.1,80,000/- per hectare.

08] Learned AGP appearing for the State has adopted the submissions advanced by Mr. J.B. Kasat.

09] Learned advocate for respondent No.1 submitted that the Co-ordinate Bench of this Court in Cross-objection No.38/2013 in First Appeal No.970/2008 has considered the sale deed at Exh.24 and arrived at the market price of the land. Learned advocate, however, submitted that the evidence of respondent No.1, which is common evidence in all the references, was not pointed out to the Co-ordinate Bench of this Court. Learned advocate took me through the evidence of respondent No.1, who himself is a purchaser of the land at Exh.24. Learned advocate

submitted that the sale deed at Exh.24 is part of the record. The sale deed does not mention that the land was irrigated. Learned advocate took me through the 7/12 extract of the said land to substantiate his submission that even the crop pattern from the 7/12 extract indicates that it was dry crop land. Learned advocate submitted that respondent No.1 has deposed in his evidence that the land at Exh.24 was dry crop land. Learned advocate further submitted that even if the sale deed of land bearing Gat No.211 of the year 1984 is considered, the price of the dry crop land on the date of the notification with a permissible increase per year would be Rs.1,75,000/- per hectare. Learned advocate submitted that the Reference Court has considered the sale deed at Exhs. 24 and 26 and held that the market price of the dry crop land would be Rs.1,40,000/-. Learned advocate submitted that, in view of the acquisition of the agricultural land, respondent No.1 has been deprived of the use and occupation of the land permanently. Learned advocate submitted that, considering this position, the compensation awarded must be just, proper, and reasonable. Learned advocate submitted that there is no substance in the appeal.

10] In order to appreciate the rival submissions, I have gone through the record and proceedings. A case is sought to be made

out on the basis of the judgment of the Co-ordinate Bench that the sale deed at Exh.24 was made the basis to determine the compensation, and the said land was treated as irrigated land. It is true that the sale deed at Exh.24 is in respect of 20R land. Two sale deeds were produced before the Reference Court for consideration. The Reference Court has taken into consideration both the sale deeds. The sale deed of the land purchased by respondent No.1 is dated 28th March, 1990. It was two years prior to the Section 4 notification. The sale deed at Exh.26 is dated 4th December, 1984. It was in respect of 32.5R land. The Reference Court, on comparing both the sale deeds, concluded that the price of the dry crop land on the date of the notification would be Rs.1,40,000 per hectare. The Reference Court awarded the compensation @ Rs.2,80,000/- per hectare in respect of the irrigated land in this appeal.

11] The evidence of respondent No.1 is on record. In his evidence, he has stated that the land was dry crop land. His statement has been supported by the sale deed at Exh.24. However, the Co-ordinate Bench has observed that, in the absence of any evidence, it cannot be said that the land at Exh.24 was dry crop land. For deciding the cross-objection and appeal, it was treated as irrigated land, and on the basis of that sale deed, the compensation

for irrigated land was determined in Cross-objection No.38/2013 in First Appeal No.970/2008. Learned advocate for respondent No.1 took me through the evidence of Subhash and pointed out that this evidence was not brought to the notice of the Court. He has pointed out that this evidence has not at all been discussed in the said judgment. In my view, whether a particular land is dry-crop land or irrigated land is a question of fact, and the same has to be addressed and decided on the basis of the evidence.

12] In this case, learned advocate for the appellant pointed out that the small piece of land, namely 20R land, could not be said to be an ideal exemplar to decide the compensation in respect of the acquired land. Learned advocate further pointed out that the land, which is the subject matter of Exh.26, has to be held as seasonally irrigated land. The Reference Court has taken both the sale deeds into consideration. If the sale deed of the land at Exh.24 is considered as it is and the market price is determined, it would be around Rs.1,50,000/- per hectare for dry crop land on the date of the notification. If the market price of the land, which is the subject matter of Exh.26, is arrived at on the date of Section 4 notification, it would be around Rs.1,75,000/- per hectare. The Reference Court has considered both the sale deeds and, on

comparing and considering both the sale deeds, has come to a conclusion that the market price of the dry crop land on the basis of both the sale deeds would be around Rs.1,40,000/-. In my view, the available evidence on record is sufficient to accept this finding of fact arrived at by the Reference Court. The Reference Court has considered both the comparable sale instances. The land, which is at Exh.24, was held to be dry crop land, and the land, which is the subject matter of the sale deed at Exh.24, was held to be seasonally irrigated land. The Reference Court, on taking into consideration the relevant factors, has recorded a finding that the market price of the dry crop land would be Rs.1,40,000/-. In my view, the record and the evidence is sufficient to maintain this finding of fact recorded by the Reference Court.

13] As stated above, with the acquisition of the land, the farmer loses the very source of his livelihood. The compensation paid for a permanent loss of land is a one-time measure. The land is precious for the farmer. It can change the future of the farmer and his family. One-time compensation, in my opinion, could not be an answer to take care of the loss of the land in view of the compulsory acquisition. It is true that while deciding such matters, the concept of the welfare state cannot be ignored. In my view, the

welfare of the farmers has to be treated as an integral part of the welfare state, and the same cannot be ignored while deciding the compensation for land in compulsory acquisition. The Reference Court, on proper analysis of the oral and documentary evidence, has come to a just, proper, and reasonable price of the dry crop land, i.e., Rs.1,40,00/- per hectare. The Reference Court, in view of the settled legal position, has awarded the compensation double the price of the dry crop land in respect of the irrigated land. In this claim, the Reference Court has awarded the compensation @ Rs.2,80,000/- per hectare in respect of the acquired land, which has been proved to be irrigated land.

14] In view of this, I am of the view that the Reference Court has rightly determined the market price of the land. As such, no interference is warranted in the well-reasoned judgment and award passed by the Reference Court. As such, I record my finding on the above point in the affirmative. As a result of this, the appeal is **dismissed**. No order as to costs. Pending applications, if any, stand disposed of.

(G. A. SANAP, J.)

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