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29-FA-839-2002

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 FIRST APPEAL NO. 839 OF 2002

The State Of Maharashtra Through Collector.

VERSUS

Anandibai Dattatraya Tirthkar.

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Mr. R. B. Dhaware, AGP for Appellant State.

Mr. R. V. Naiknavare, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 8th SEPTEMBER 2025.

PC :-

1. Heard the parties.
2. This first appeal is preferred against the common judgment and award passed by learned Civil Judge Senior Division, Osmanabad, in LAR Nos. 244-245-247-248 of 1991 dated 24th August 1993.
3. The land of the respondent-claimant is acquired for the project namely, Ruibhar Medium Project. His land is acquired from Gut No. 424

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of village Ruibhar. A notification under Section 4 of Land Acquisition Act was issued on 19th October 1982. The learned SLAO had granted rate of Rs.10,000/- per hectors whereas the learned Reference Court has granted the rate of Rs.33,000/- Acre.

4. The learned AGP vehemently argued that the learned Reference Court has committed an error in awarding the compensation at much higher rate. The learned SLAO had rightly awarded the rate by considering situation of the land, other sale instances and material made available to him. The learned Reference Court has wrongly relied upon the evidence of the witnesses and failed to appreciate the same in proper perspective. He thus prays for allowing the first appeal.

5. The learned Advocate for the respondent-claimant vehemently argued that the learned Court below has rightly appreciated the evidence. There were three witnesses examined in the lead LAR. From the evidence, it is clearly seen that the rate of the land in the said village was much higher than the rate awarded by the SLAO. He prays for

dismissal of appeals.

6. This Court has gone through the record. In LAR No. 248/1991, the witnesses were examined. (PW-1) Dattatraya T. Tirthkar was examined at Exh.19. He deposed that he was the power of attorney holder of claimant Anandibai. His wife was having agricultural land bearing Gut No.424 at Ruibhar, admeasuring 42R. This witness knows about the position of the land. He deposed that the lands acquired were black cotton soil and fertile land. Crops like, sugarcane, cotton, jawar, groundnut etc. were taken from the land. At the relevant time, the rate of land was of Rs.15,000/- per Acre. There were no sale deeds executed at the time of notification. He relied upon one sale instance of land admeasuring 2 Acre of one Shivaji Rohile on 19th May 1982 where the consideration was fixed of Rs.90,000/-. The sale deed could not take place because of the notification under the Land Acquisition Act. However, the agreement was registered and Rs.30,000/- was paid as advance. He further deposed that the other lands are similarly situated lands. In the cross-examination, nothing much is taken to credit his

evidence.

7. PW-2 Namdeo Ganpati Jadhav also deposed on the similar lines and deposed about the same sale instances of Shivaji Rohile.

8. PW-3 Ramchandra Baraskar is the Government approved valuer, who had given the valuation report. He proved the valuation report at Exh. 28/A and 28/B. He deposed that he considered the D.S.R. rate approved by PWD Department in 1983 and used the same for making the valuation of the tals. He proved valuation reports at Exh. 29 to 31 about the respective lands. He further deposed that there was well having diameter and depth of 35 feet. He prepared the valuation report of the well. It has come in his cross-examination that he has done valuations in more than 100 cases. Nothing could be taken even in the cross-examination against the claimant.

9. This Court, on the basis of evidence as discussed above, finds that the learned Reference Court has rightly decided the reference. No illegality or infirmity is pointed out requiring interference at the

appellate stage. This Court finds that there is no merit in the first appeals and the same are hereby dismissed. No order as to costs.

10. Pending civil applications, if any, stand disposed off in view of disposal of first appeal.

[KISHORE C. SANT, J.]