



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1668 OF 2002

Shivaji Pandurang Kothavale

... Appellant.

Versus

The State of Maharashtra and Anr.

... Respondents.

Ms. Srushti S. Chalke i/by Mr.Drupad Patil for the Appellant.
Mr. A.R. Patil, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : February 07, 2025

P.C. :

1. The First Appeal has been preferred challenging the Judgment and Award dated 4th May, 2001 passed by the Reference Court in reference filed under Section 18 of the Land Acquisition Act, 1894 (for short, "LA Act") seeking enhancement of compensation. The Notification under Section 4 of the LA Act was published on 29th August, 1991 for acquiring the Appellant's land for minor irrigation tank. The Award was declared on 12th November, 1993 and compensation was awarded at the rate of Rs.30,000/- per hector.

2. The facts of the case are that two References were filed, one by the Appellant and other by his brother claiming enhanced

compensation for lands from same village Girzani-Paniv. The case of the Claimant was that his land bearing Block No.550/2 was well irrigated lands and the amount of compensation was accepted under protest. It was claimed that the Land Acquisition Officer has not taken into consideration the market value of the lands prevailing in the vicinity which were at the rate of Rs.80,000/- per hector.

3. The reference was resisted by the State Government and the Land Acquisition Officer contending that the compensation determined is reasonable and adequate one.

4. The Reference Court after considering the material which was produced on record, partly allowed the reference and granted enhanced compensation of Rs.63,000/- to the present Appellant.

5. Learned counsel appearing for the Appellant would submit that in order to establish her case of enhanced compensation, the Claimant had produced on record a sale transaction of 11th December, 1991, wherein the lands in the vicinity of acquired land was purchased for consideration of Rs.5,62,000/-. She submits that considering the comparable sale instance, the market value of the acquired land was in range of Rs.80,000/- to Rs.1,00,000/-, which was required to be granted by the Reference Court. She would

further submit that the Reference Court has failed to grant interest on solatium and the component computed at 12% of the market value and the same has to be granted from the date of taking possession which is on 10th December, 1991, under Section 28 of the LA Act.

6. The Reference Court has awarded enhanced compensation of Rs.63,000/- to the Appellant by taking into consideration that the comparable sale instance of Jirayat land and irrigated land as observed by the Land Acquisition Officer were in the range of about Rs.50,000/-. The Reference Court did not accept the sale instance which was produced by the Claimant as a comparable sale instance for the reason that firstly the sale transaction was effected on 11th December, 1991 which was after the date of publication of Section 4 Notification on 29th August, 1991 and secondly, for the reason that as the land was purchased by a Sugar Factory for industrial purpose, the commercial establishment would offer a higher price to fulfill its purpose. In order to grant enhanced compensation, the Reference Court referred to a comparable sale instance of an agricultural land to an agriculturist and accordingly determined the rate.

7. Apart from the judgment, there is nothing produced on record, and hence it cannot be ascertained whether the sale instance of 11th December, 1991 is comparable sale instance as on date of publication of Notification. The finding of Reference Court that the sale instance produced is in respect of a Sugar Factory purchasing a land for industrial purpose and thus cannot be a comparable sale instance for determining the market value of the property is not shown to be suffering from infirmity. Before this Court, there is no submission canvassed to dislodge the finding of Reference Court.

8. There is however substance in the submission of the learned counsel appearing for the Appellant that the statutory benefit under Section 28 and Section 23(1)(A) of the LA Act have not been granted to the Claimant.

9. Accordingly, the First Appeal is partly allowed and the Collector, Solapur is directed to pay the statutory benefit in accordance with Section 28 and Section 23(1)(A) of the Land Acquisition Act within a period of six months from the date of uploading of the present order.

[Sharmila U. Deshmukh, J.]