



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1029 OF 1997

State of Maharashtra.

...Appellant.

Versus

Raghunath Ramchandra Dicholkar
and Others.

...Respondents.

Mr. A. R. Patil, AGP for the Appellant.

Coram : Sharmila U. Deshmukh, J.

Date : February 14, 2025.

P. C. :

1. First Appeal has been preferred against the judgment and award dated 6th March 1996 passed by the Reference Court in L.A.R. No. 33 of 1994 enhancing the compensation awarded to Rs.2,000/- per Are of acquired land, Rs.2,500/- per mango graft and Rs.1,000/- per cashew nut tree along with other statutory benefits.

2. Reference was filed under Section 18 of the Land Acquisition Act, 1894 [for short "**LA Act**"] being dissatisfied by the award dated 4th December 1993 passed by the Special Land Acquisition Officer under Section 11 of the LA Act. The subject land was acquired for Kokan Railway Project pursuant to a notification dated 11th July 1991 issued under Section 4 of the LA Act. Notification under Section 6 of the LA Act was published on 24th October 1991. Referee after following the

procedure prescribed under the LA Act, passed award on 4th December 1993 and determined the compensation @ Rs.300/- per Are for kharip land, @ Rs.400/- per Are for warkas land and @ Rs.2/- per Are for potkharaba land. Being dissatisfied, the claimants filed Reference under Section 18 of the LA Act contending that Referee had appointed Revenue Circle Inspector for valuation of acquired land and the panchas had valued the acquired land at Rs.4,000/- per Are, which is not accepted by Referee without assigning any reason. It was further contended that stamp duty in respect of lands of village Zarap was fixed by the State Government at Rs.350/- per Are on the transfer instruments which has also not been considered by Referee. The topography of village Zarap was set out stating that village Zarap is situated at a distance of 7 km from Kudal city and at a distance of 8 km from Sawantwadi city and that acquired land is situated at a distance of 3 km from Mumbai-Goa National Highway and therefore, compensation @ Rs.2,000/- per Are was claimed. As far as the trees are concerned, it was contended that Referee had not given compensation for the same. As per the valuation made by Deputy Director of Horticulture, compensation for mango graft @ Rs.2,500/- per tree and compensation of Rs.14,000/- was claimed.

3. The Application came to be resisted by State contending that compensation awarded was adequate.

4. Reference Court considered the oral and documentary evidence produced by Claimants, which was in the form of Index-II. Reference Court noted that as far as Index-II in respect of the sale-deed dated 5th May 1990 is concerned, in the said sale-deed market price of the acquired land was more than Rs.2,000/- per Are in the year 1991. Taking into consideration the fact that Revenue Circle Inspector and Panchas had valued the acquired land at Rs.4,000/- per Are, which valuation has been rejected by the Referee without any reason and considering the topography of acquired land, Reference Court awarded compensation @ Rs.2,000/- per Are. Reference Court also took into consideration the valuation of trees made by the Deputy Director of Horticulture situated on acquired land. Reference Court considered the document at Exhibit 37 which was not disputed as also Exhibit-36 in which Kokan Railway Corporation had issued proclamation about the compensation for trees situated on acquired land and compensation for mango grafts was given @ Rs.4,000/- per tree and @ Rs.1,000/- per cashew nut tree. Considering the same, Reference Court granted compensation @ Rs.2,000/- per Are for acquired land, @ Rs.2,500/- per mango graft and @ Rs.1,000/- per cashew nut tree.

5. Mr. Patil, learned AGP would submit that Reference Court has determined the compensation without taking into consideration relevant factors under Section 23 of the LA Act. He submits that the

Reference Court relied upon copy of Index-II without any evidence being led as to the parties to the said sale-deed and without considering whether the land which was subject matter of sale-deed is identically situated with that of acquired land. He would further submit that though the market value was determined for the land, compensation for trees had also been granted which is impermissible.

6. I have considered the submissions and perused the records.

7. Prior to the passing of award, Referee had valued the acquired land and valuation as per panchas was Rs.4,000/- per Are. There is nothing demonstrated on record to show any reason given by the Referee for discarding the valuation of Rs.4,000/- per Are and for granting compensation @ Rs.300/- to Rs.400/- per Are. Reference Court while deciding the Reference took into consideration that the acquired land is located close to Mumbai-Goa National Highway and that the distance between Sawantwadi and Kudal cities is 20 km and village Zarap is situated at the middle of these two towns and therefore was in close proximity of these developed areas. Taking into consideration these facts, the market value of acquired land was determined by the Reference Court. Although Reference Court has taken into consideration Index-II produced on record without the sale-deed being produced on record, the Reference Court has merely referred to the said document. It needs to be noted that Reference Court has, however,

taken into consideration the valuation by Revenue Circle Inspector which was more than Rs.4,000/- per Are and after taking into consideration the location of acquired land, has granted compensation @ Rs.2,000/- per Are.

8. As far as the contention that separate compensation for trees could not have been granted, the Reference Court has considered the proclamation by Kokan Railway Corporation about compensation of trees situated on the acquired land for Kokan Railway Project. The Reference Court further considered that Referee had given compensation for the trees. The Reference Court having taken into consideration all relevant factors, there is no infirmity. First Appeal is devoid of merits and stands dismissed.

9. In view of the disposal of First Appeal, nothing survives for consideration in the pending civil/interim applications and the same stand disposed of.

[Sharmila U. Deshmukh, J.]