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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1002 OF 2015

Dhanpal Ganpati Gujar (Shah) And Ors.

...Appellants.

Versus

The State Of Maharashtra And Ors.

...Respondent.

Mr. Akshay Kulkarni i/b. A.M.Kulkarni, for the Appellants.

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

Mr. Akshay P. Shinde, for the Respondent No.3.

Coram : Sharmila U. Deshmukh, J.

Date : May 8 , 2025.

P. C. :

1. First Appeal has been preferred by original Claimant being dissatisfied by the Judgment and Award dated 1st November 1996, passed by the Reference Court in Land Reference No.04 of 1986 awarding compensation of Rs.69/- per square meter to the original Claimant who had claimed Rs.120/- per square meter.
2. The Claimant's land came to be acquired for purpose of road widening by Ichalkaranji Municipal Council. The notification under Section 126(4) was issued on 28th February 1980. The Award was passed on 30th March 1985. The compensation awarded was Rs.23/- per square Meter. Being dissatisfied, Land Acquisition Reference No.04 of 1986 was filed and by the impugned Judgment dated 1st November 1996, which was common judgment in Land Acquisition Reference No.2

of 1986 and Land Acquisition Reference No.4 of 1986, the present Claimant was awarded Rs.69/- per square Meter whereas the Claimant in LAR No.2 of 1986 was awarded Rs.63/- per Square Meter.

3. Learned counsel appearing for the Appellant-Original Claimant states that the Claimant in LAR No.2 of 1986 preferred an Appeal before this Court being First Appeal No.1136 of 1997 and by Order dated 24th February 2005, the Appeal came to be partly allowed. The Claimant in LAR No.2 of 1986 was granted compensation of Rs.100/- per square meter. He submits that in the present case the Claimant has claimed Rs.120/- per square meter and considering that before the Reference Court the Claimant in LAR No. 2 of 1986 was awarded Rs.61/- per square meter whereas Claimant in the present case was awarded Rs.69/- per Square meter, the Claimant is entitled to higher compensation.

4. He would further submit that there is an error of calculation in the Reference Court Award as the same takes into consideration as the Rs.48,149/- has been paid by the Special Land Acquisition Officer whereas only Rs.30,000/- has been paid by the Special Land Acquisition Officer, which is required to be rectified.

5. *Per contra*, learned counsel for the Respondent No.3/Acquiring body would submit that there is no material placed on record to show the entitlement of the present Claimant to Rs.120/- per square meter.

He submits that it will have to be shown that the present Claimant's land had advantage which was not available to the Claimants in LAR No.2 of 1986. He submits that the mere fact that the land of the present Claimant was fronting the road will not amount to an advantage as the project was of road widening. He submits that this Court in First Appeal No.1136 of 1997 has awarded Rs.100/- per square meter as compensation and the present Claimant is entitled to the same amount as the lands are identically situated and not to enhanced compensation of Rs.120/- per square meter.

6. The issue which arise for consideration is whether the Reference Court has granted adequate compensation for the lands of the present Claimant. The issue will have to be considered in context of order of 24th February 2005, passed by this Court in LAR No.02 of 1986, which has granted Rs.100/- per square meter and whether the Claimant in the present Appeal is entitled to compensation higher than that of the Claimant in LAR No. 02 of 1986.

7. Considering that common judgment was passed in LAR No. 02 of 1986 and LAR No. 04 of 1986, it cannot be disputed that the acquisition for the same project i.e. for the purpose of Road Widening and from the same area. The Reference Court while awarding different compensation for the land of present Appellant and the Claimants in LAR No. 02 of 1986 has taken into consideration the compensation

awarded by the SLAO, which had granted Rs.21/- per square Meter to Claimant in LAR No. 02 of 1986 and Rs. 23/- per square meter to the present Claimant. Apart from that there is no basis for the Reference Court for awarding different compensation. From the material, there is nothing demonstrated to show that the market value of present Claimant's land is higher than that of the Claimant in LAR No. 02 of 1986. The distinction by the Reference Court on the basis of the compensation awarded by the SLAO is unsustainable.

8. By order of 24th February 2005, this Court in respect of LAR No. 02 of 1986 granted compensation of Rs.100/- per square meter. As lands are identical, the Claimant in the present Appeal will also be entitled to the same amount of Rs.100/-per square meter.

9. As far as the discrepancy in the amount which has been paid by the SLAO, the same can be considered at the time of awarding the enhanced compensation to the present Claimant by the acquiring body.

10. In the light of the above, the Judgment and Award of the Reference Court dated 1st November 1996, in LAR No. 04 of 1986, stands modified. The Claimant is entitled to Rs.100/- per square meter as compensation alongwith the consequential statutory benefits.

11. Appeal stands allowed.

[Sharmila U. Deshmukh, J.]