IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
8 FIRST APPEAL NO. 421 OF 2008

Zugabai Nana More Thr. Lrs Ranubai Sonbhaji Sonkamble And Ors.

VERSUS

The Special Land Acquisition Officer, Upper Tapi Project Jalgaon.

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Mr. Ajeet B. Kale for the Appellant.
Mr. S. B. Jadhav, AGP for State.

...

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 29 OCTOBER 2026

P. C.:

1. As the acquisition proceeding is of the year 1978, the Appeal is heard finally with the consent of learned counsel for the respective parties.

2. By this Appeal, the original claimants are aggrieved by the judgment and award dated 12th April 2005 passed by the Ad hoc Additional District Judge, Jalgaon in LAR No.2/1986 whereby reference came to be dismissed.

3. The land of the original claimants from Gat No.314 admeasuring 80R situated at village Daregaon Londhe was acquired for Panjan Left Bank Canal at village Daregaon Londhe. Notification under Section 4 of the Land Acquisition Act, 1894 (for short "the Act") came to be published on 11th August 1978 and possession 19th March 1982. The SLAO declared award on 31st March 1981 and granted compensation @Rs.4500/- per hectare. After accepting the aforesaid compensation under protest, the claimants sought reference under Section 18 of the Act whereby the reference came to be dismissed.

4. The learned counsel for the claimants submits that the learned Reference Court has erroneously dismissed the reference filed by the claimants only on the ground that evidence of Power of Attorney holder of claimants was tendered in place of the claimants. He submits that the claimants had filed sale instance at Exh.15 which was considered as a comparable sale instance by the learned Reference Court, but at the time of granting compensation, the learned Reference Court dismissed the reference for the reason that the evidence of Power of Attorney holder cannot be considered. Therefore, he prays to allow the Appeal and set aside the impugned award.

5. Per contra, learned AGP for the State supports the impugned award by contending that the claimants themselves have to enter into the witness box and tender evidence as to comparability of the sale instance. However, a sudden appointment of Power of Attorney holder to tender oral evidence was doubtful. A third person cannot have full knowledge of the potentiality of the land of the claimants. Thus he submits that the learned Reference Court has rightly discarded his evidence and prays to dismiss the Appeal.

6. Having heard learned counsel for the respective parties and upon perusal of record and proceeding, particularly impugned award, it reveals that the learned Reference Court has discarded the evidence of Power of Attorney holder outright by giving reasoning that evidence of Power of Attorney holder cannot be considered as evidence of claimants.

7. However, Section 51A of the Act authorises the claimants to produce certified copies of sale instances. Once the statute itself has allowed the certified copies to be exhibited, no evidence of even the parties to the sale deed or claimants is required to be necessarily recorded. Thus, no question of discarding the evidence of Power of Attorney holder comes into picture. Therefore, once the sale instance was placed on record, the learned Reference Court has committed an error in dismissing the reference even after reaching to the conclusion that the claimants are entitled to receive enhanced compensation.

8. By sale instance at Exh.15, 93R dry land was sold for Rs.16,000/- on 13th June 1978 i.e. prior to Section 4 notification, thus the said sale instance can be relied upon for determining the market value of the acquired land. The said sale instance fetches market value of Rs.17,000/- per hectare. Therefore, the claimants are entitled to the said rate. Hence, I pass the following order:-

ORDER

i. The present Appeal filed by the claimants is partly allowed.

ii. The judgment and award dated 12th April 2005 passed by the Ad hoc Additional District Judge, Jalgaon in LAR No.2/1986 is modified to the extent that the claimants are entitled to receive the rate of Rs.17,000/- per hectare for their acquired land.

iii. The claimants are entitled to all statutory benefits as per the provisions of the Land Acquisition Act, 1894 and interest under Sections 28 and 34, as the case may be, as per the law laid down by Full Bench of this Court in ***State of Maharashtra Vs. Kailash Shiva Rangari*** (2016(3) Mh.L.J. 457).

iv. Rest of the award passed by the learned Reference Court remains unaltered.

v. Modified award be drawn accordingly.

vi. Deficit Court fee be paid.

vii. Pending civil applications, if any, are also disposed of.

[SIDDHESHWAR S. THOMBRE, J.]