IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 FIRST APPEAL NO. 1749 OF 2008

DNYANDEO BANDU SHERKAR (L.RS.) VISHWANATH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THRO.COLLECTOR.
...
Advocate for Appellant : Mr. B.R. Sontakke-Patil.
AGP for Respondent/State : Mr. A.M. Phule
...

CORAM : SIDDHESHWAR S. THOMBRE, J.
Dated : October 27, 2026

PER COURT :-

1. As the acquisition proceeding is initiated in the year 1982, heard finally with the consent of learned counsel for respective parties.

2. By this appeal, the appellant/original claimant assails the judgment and award dated 20.7.1992 passed by the learned Civil Judge, Senior Division, Osmanabad in LAR No. 302/1989.

3. The land of the claimant admeasuring 25 R. from Survey No. 369/4 situated at just adjacent to Osmanabad city was acquired for the purpose of ring road. Notification under section 4 of the Land Acquisition Act came to be issued 6.2.1982. The Special Land Acquisition Officer (SLAO) has declared the award on 27.1.1986 and has granted total compensation of Rs. 5280/-, which includes the amount of solatium and interest component etc. After accepting the amount under protest, the claimants sought reference under section 18 of the Act.

4. Before the reference court, the claimant relied upon the sale instance dated 26.5.1971, by which plot admeasuring 150’ x 60’ was sold for Rs. 34002/- and the learned reference court, by relying upon the same granted rate of Rs.3.50 per sq. ft. by observing that the acquired land was situated

½ furlong away from the land involved in aforesaid sale instance. Being dissatisfied with the impugned judgment and award of the reference court, the present appeal is filed.

5. Mr. B.R. Sontakke-Patil, learned counsel for the appellant/original claimant submits that the land was acquired in the year 1982 and the claimant has relied upon sale instance of the year 1971. Even as per the sale instance, rate comes to Rs.3.75 per sq. ft. and therefore, the claimant is entitled to receive 10% escalation per year from the date of sale instance. However, the learned reference court, without considering the same, has granted rate of Rs.3.50 per sq. ft. only. He therefore prays to allow the appeal.

6. Per contra, Mr. A.M. Phule, learned AGP for the State vehemently submits that infact the learned SLAO and the learned reference court have considered the sale instances and after considering the sale instance granted the rate, which is just, reasonable and proper. As regards granting rate of Rs.3.50 per sq. ft. is concerned, Mr. Phule submits that sale instance is of the year 1971 and that pertains to small plot and here in the present case, 25 R. land was acquired for the above project and therefore, the learned reference court by applying deductions straight way granted rate of Rs.3.50 per sq. ft. Even he submits that the claimant has claimed rate of Rs.4/- per sq. ft. in his claim petition and the learned reference court has granted rate of Rs.3.50 per sq. ft. He therefore submits that in view of the above, there is no scope to grant further enhancement in favour of the claimant and prays to dismiss the appeal.

7. Having heard the learned counsel for the respective parties, with their able assistance I have gone through the record and proceedings and the

impugned judgment and award. The claimant relied upon the sale deed dated 25.5.1971, by which by which plot admeasuring 150' x 60' was sold for Rs. 34002/-. In the present case, section 4 notification came to be published on 6.2.1982 and as the sale instance is prior to section 4 notification, the learned reference court has considered the same as comparable sale instance. As the sale instance is of the year 1971 and section 4 notification was published on 6.2.1982, this court is of the view that the claimant is entitled to receive 10% escalation per year for five years only. Though counsel for the claimant submits that the claimant is entitled for 10% escalation per year from the date of sale instance, the Hon'ble Apex Court has considered this aspect in various matters and held that if the sale instance pertains to more than 10 years old, in that case, it would be desirable to grant escalation for five years only. Therefore, this court is of the view that the claimant is entitled to 10% escalation for five years and by applying the same, the rate comes to Rs.5.65 per sq. ft. and therefore, by rounding it off, this court holds that the claimant is entitled to receive rate of Rs.6/- per sq. ft. for his acquired land. The claimant is also entitled to receive interest and statutory benefits from the date of award. Hence, I pass the following order.

O R D E R

(i) The appeal is partly allowed.

(ii) The impugned judgment and award is modified to the extent that the claimant shall be entitled to compensation at the rate of Rs.6/- per sq. ft. for his acquired land.

(iii) The claimant shall be entitled to interest and statutory benefits on the enhanced compensation, from the date of award, in accordance with the

provisions of the Land Acquisition Act, 1894.

(iv) Save and except the aforesaid modifications, the impugned Judgments and Awards shall remain unaltered.

(v) The claimants shall pay the deficit court fees, if any, on the enhanced amount.

(vi) The modified Award be drawn accordingly.

(vii) Pending Civil Applications, if any, stand disposed of.

(SIDDHESHWAR S. THOMBRE, J.)

ssc/