IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 FIRST APPEAL NO. 3177 OF 2015

THE STATE OF MAHARASHTRA AND ANOTHER
*VERSUS*
DATTATRAYA VITTHALRAO KAPSE
...
Mr. A. M. Phule, AGP for the Appellants/State.
Mr. Estling S. Murge, Advocate for Respondent.
...

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 1st OCTOBER, 2026

P.C.:-

1. Since the acquisition proceedings pertain to the year 1995, the appeal is heard finally with the consent of the learned Advocates for the respective parties.

2. By the present appeal, the Appellants/State are aggrieved by the judgment and award dated 09.11.2012 passed by the learned Joint Civil Judge Senior Division, Osmanabad in LAR No.1280/2002, whereby the learned Reference Court enhanced the compensation in favour of the Claimant by granting the rate of Rs.1800/- per R for irrigated land and treating the land as irrigated land.

3. Brief facts of the present case are as under:-

(i) The land of the Claimant bearing Gat No.280 admeasuring 1 Hectare 15 R situated at village Gaurgaon was acquired for the purpose of Percolation Tank Gaurgaon No.1 (Additional),

situated at village Gaurgaon, Taluka Kallam, District Osmanabad.

(ii) The Notification under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act"), came to be published on 23.10.1997, and the Notification under Section 6 of the Act came to be published on 22.04.1999.

(iii) The Land Acquisition Officer (LAO) passed an award on 28.02.2000 and granted compensation at the rate of Rs.250/- per R for dry land. Being aggrieved thereby, the Claimant sought reference under Section 18 of the Act. The learned Reference Court awarded the compensation @ of Rs.1,800/- per R.

**4.** Mr. A. M. Phule, learned AGP for the Appellants/State submits that the compensation awarded by the learned Reference Court is excessive and that the acquired land could not have been treated as irrigated land. He, therefore, submits that the impugned judgment and award deserves to be modified.

**5.** Mr. Estling S. Murge, learned Advocate for the Respondent/Claimant submits that the learned Reference Court has rightly determined the compensation by considering the sale instance from the same village and the availability of irrigation facilities, including two wells. He, therefore, submits that the impugned judgment and award is just and proper and no interference is

warranted.

**6.** Having heard the learned Advocates for the respective parties and with their able assistance, I have gone through the record and proceedings. The LAO granted compensation at the rate of Rs.215/- per R for dry land. If the rate granted for irrigated land is considered, it comes to Rs.1,800/- per R. This Court is of the view that the rate determined for dry land would fall within the parameters of the Government decision providing that matters in which the enhancement in compensation is within four times of the awarded amount should not be challenged.

**7.** The learned Reference Court has also considered the sale instance at Exhibit 31, dated 31.08.1999, pertaining to Gat No.334 admeasuring ½ Acre for consideration of Rs.50,000/-, thus the transaction took place at the rate of approximately Rs.2,50,000/- per Hectare. The acquired land is situated in the same village. Therefore, considering the sale instance from the same village and applying the appropriate deduction, the learned Reference Court determined the rate of compensation. On merits also, this Court is of the view that the learned Reference Court has awarded just and reasonable compensation, which cannot be said to be exorbitant or excessive. The learned Reference Court has also considered the availability of two stone bunds and two wells while determining the compensation.

8. Therefore, the compensation awarded by the learned Reference Court is just and proper. No case is made out for interference with the impugned judgment and award.

9. Hence, the present appeal is dismissed. No order as to costs.

(SIDDHESHWAR S. THOMBRE, J.)

*Tauseef*