

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 61 OF 2008

THE STATE OF MAH & ORS
VERSUS
SAKHARAM BULA TADAVI

...

WITH
FA/62/2008

THE STATE OF MAH & ORS
VERSUS
DHARMA BHUKYA TADAVI

...

AGP for for Appellant :Mr S B Yawalkar

...

CORAM : V.K. JADHAV, J.

Dated: May 31, 2016

...

PER COURT :-

1. Being aggrieved by the Judgment and Award passed by the learned Civil Judge S.D., Shahada dated 24.8.1999 in LAR No.47 of 1998 alongwith connected matters, the original Respondent-State has preferred these appeals, since both the appeals arises out of the same award, are decided by this common Judgment.

2. Brief facts, giving rise to the present appeals, are as under :-

The agricultural lands owned and possessed by

the respondents/original claimants situated at village Ratanbara has been acquired by the State Government for Medium Irrigation Project Ratanbara. Notification under section 4 of the Land Acquisition Act was published in the Government Gazettee on 10.12.1981. The Land Acquisition Officer had passed award on 17.7.1986. The land Acquisition Officer has awarded compensation @ Rs.7,000/- per hectare for the acquired lands. Being aggrieved by the same, the respondents-original claimants have preferred the reference petition. The learned Civil Judge, S.D., Shahada, by its common judgment and award dated 24.8.1999 partly allowed the said petitions and awarded the enhanced compensation to the Respondents-original claimants @ Rs.15,000/- per hectare for the acquired lands. Hence, State of Maharashtra has preferred these appeals.

3. The learned AGP submits that Award passed by the Special Land Acquisition Officer reflects true and correct market value of the acquired land on the date of notification under section 4 and without considering the record of the Special Land Acquisition Officer awarded

exorbitant amount of compensation to the respondents-claimants. The learned AGP further submits that the reference Court has committed error while awarding enhanced compensation without any evidence of comparable sale instances on record. The learned Judge of the Reference Court has wrongly placed reliance on the sole sale instance furnished by the claimants. The learned AGP submits that impugned Judgment and award thus calls for an interference and the same is thus liable to be quashed and set aside.

4. None present for the respondents-claimants.

5. It appears from the copy of the Award that total land of 14 Hectare and 72 Aar came to be acquired for Delhi Project at village Ratanbara, Taluka Akkalkuwa. It further appears that Special Land Acquisition Officer had classified the acquired lands into two groups on the basis of the Revenue Assessment. The Special Land Acquisition Officer has awarded compensation @ Rs.6,500/- per Hectare for group 1 lands and Rs.7,000/- per hectare for group 2 lands and Rs.200/-

per hectare for Pot Kharab lands. The lands falling under Group-1 are having an assessment between 0.1 to 1.25 and the lands falling under Group-2 are having assessment 1.26 to 2.50.

6. The respondents-claimants have produced the copy of the judgment delivered in LAR No.8/1993 and 10/1993 by the Civil Judge S.D., Nandurbar on 10.3.1995. The lands acquired in the said Reference were from village Ranjani which submerged under the same project. The acquired lands in those reference were having assessment of Rs.0.74 and Rs.1.33 per Hectare and the same were considered as falling in group-1. In the said LAR 8/1993 and 10/1993 the Civil Court has enhanced the compensation @ Rs.14,500/- per Hectare.

7. Furthermore, respondents-claimants have placed their reliance on a sale deed marked at Exh.34. The evidence of CW 2 speaks that he sold land admeasuring 1H 21R from village Pimpripada for a consideration of Rs.21,000/- on 9.6.1981. This sale transaction came to

be effected just prior to the notification under section 4 published on 10.12.1981. It further appears from the contents of the sale deed at Exh.34 that, dry land to the extent of 3 acres came to be purchased for a consideration of Rs.21,000/- i.e. Rs.17,355/- per hectare. The learned Judge of the Reference Court has observed in paragraph no.12 of the Judgment that though land is from the different village but the same is situated at a distance of two kilometers from the acquired lands of respondents-claimants. Further, it appears that, land sold under the sale instance Exh.34 having assessment of Rs.8 and for land admeasuring 1 H 21 R of land. It appears from paragraph No.15 of the Judgment that the learned Judge of the Reference Court has rightly reduced the rate by considering the groups formed by the Special Land Acquisition Officer and accordingly, determined the enhanced compensation @ Rs.15,000/- per hectare. The learned Judge of the Reference Court in absence of any evidence in this regard refused to consider that the acquired lands are the irrigated lands. On the basis of earlier judgment, for the lands acquired for the same project though from the

different village and sale instance Exh.34, reference court has rightly determined the market value of the acquired lands as on the date of the notification under section 4 @ Rs.15,000/- per hectare. So far as Potkharab land is concerned, reference court has rightly concluded that SLAO has awarded the compensation of Rs.200/- per Hectare only and the same appears to be meager. Reference Court has rightly concluded the issue by observing that Pot Kharab land shall be valued half the price fetched by the cultivable lands. The learned Judge of the Reference Court has made said observations on the basis of oral evidence that Potkharab lands were under cultivation and the claimants were taking crops like jowar, wheat, paddy. I do not find any fault in the impugned judgment and award granting compensation at the enhanced rate for the potkharab lands at the rate of Rs.7,500/- per hectare. The reference Court has awarded just and reasonable compensation. No interference is required. There is no merit in the appeals. Hence, following order is passed.

ORDER

- I. First Appeal Nos.61 of 2008 (Collector Dhule and another Vs. Sakharam Bula Tadavi) and 62 of 2008 (The Collector, Dhule and another Vs. Dharma Bhukya Tadavi) are hereby dismissed with costs.
- II. Award be drawn up accordingly.

(V.K. JADHAV, J.)

...

aaa/-