

(2017) 04 BOM CK 0172
In the Bombay High Court
Case No : 1152 of 2007

Maharashtra Industrial Development	Vs	APPELLANT
Abdul Latif & Ors		RESPONDENT

Date of Decision : 07-04-2017

Acts Referred:

Land Acquisition Act, 1894, Section 18 -
Reference to Court
Maharashtra Industrial Development Act, 1961, Section 32(2), Section 32(1) -
Compulsory ac

Citation : (2017) 04 BOM CK 0172

Hon'ble Judges : N.W.Sambre, Andurkar

Bench : DIVISON BENCH

Advocate : M.M.Agnihotri, M.A.Kadu

Judgement

1. The present respondent no.1 claims to be the owner of land Survey No. 223/2 area 1 H 90 R and Survey No. 223/2 A area 0.83 R, total area admeasuring 2 H 73 R which were situated at Mouza - Nangaonpeth, District Amravati. The appellant Corporation, for development of industrial area, acquired the same pursuant to the Notification under Section 32(2) dated 14.01.1994 and Notification dated under Section 32(1) dated 02.06.1994 of the Maharashtra Industrial Development Act.The Land Acquisition Officer passed an award dated 20.03.1997 thereby awarding compensation of Rs.1,500/ per hectare.What noticed by the Land Acquisition Officer was, the land was not under cultivation for substantial longtime and it also includes Pot Kharab land.

2. The respondent no.1 feeling aggrieved, preferred Land Acquisition Case No.265/1999 under Section 18 of the Land Acquisition Act for enhancement of compensation. The learned reference Court enhanced the compensation by itsjudgment dated 28.09.2007 thereby awarding compensation of Rs.40,000/ per acre along with other benefits, which judgment is questioned in the present appeal.

3. Learned counsel for the appellant, Shri Agnihotri, would strenuously urge that the judgment delivered by the reference Court is based on surmises and conjectures. According to him, hardly any evidence is discussed in the said judgment. So also, no reasons are furnishing for awarding enhanced compensation at exorbitant rate. He would then take me through the evidence of witness of the Abdul Lateef Sheikh Mannu Exh. 30, his cross examination, Exh. 35, 37 and 38 sale indexes in the form 2 and 7/12 extract Exh. 39. According to him, though the documents are exhibited, the same were never put to witness and such documents have hardly any evidentiary value. In addition, he would urge that the compensation is absolutely without considering the location of the land, and its quality. As such, according to him, the judgment impugned is liable to be upset to the extent of awarding compensation @ Rs.53,000/ per hectare which was declared by the State Government. He would then urge that the judgment of the reference Court is required to be modified to the above extent.

4. None appears for the respondent no.1 land owner and as such this Court has called Assistant Government Pleader, Shri Kadu, to assist the Court in understanding the record and proceedings. Shri Kadu, learned AGP, has brought to my notice record and would urge that even if the documents at exhibits 35, 37, 38 and 39 were not put to witness, however since the witness was subjected to cross examination, the documents are required to be exhibited. He would then urge that it was the duty of the Court to put exhibited documents to the witness. However, at this stage, the Court should not go into such technicalities, particularly when the witness was cross examined. In addition, he would urge that the large strata of land was acquired by the appellant in the said vicinity. According to him, the land in question which is situated at mouza Nandgaonpeth, and is near to the national highway. As such, the Court should pass appropriate order in the matter.

5. Having considered the rival submissions of the parties, it is not disputed that the State Government has declared minimum compensation of Rs.53,000/ per hectare to the land owners and the Land Acquisition Officer has awarded meager compensation of Rs.1,500/ per hectare.

6. On perusal of the 7/12 extracts which are Exhs. 38 and 39 it can be inferred therefrom that the land was very much under cultivation and there is no entry as regards Pot Kharab (non cultivable) land. Apart from above, it has been brought in record in examination in chief that the land owner has given clarification about the said issue and he also brought on record certain sale instances.

7. This Court then notice that in First Appeal No.734/2008 while dealing with the appeals of the land owners in the adjoining village, the Court has fixed price of the land to the extent of Rs.89,000/ per hectare. Relying upon the said judgment of this Court in First Appeal No. 486/2011, dismissed the appeal preferred by the appellant thereby confirming the award of compensation of Rs.1,00,000/ per hectare.

8. On the record, there appears lay out map and it could be easily inferred having regard to the topography of the said place that the land of the present respondent no.1 is better located, particularly taken into consideration the location of National Highway which base through Nandgaonpeth where the land of respondent no.1 was located.

9. Apart from above, it is required to be noted that the respondent no. 1 is facing land acquisition proceedings since last more than 30 years and at this stage, in my opinion, upsetting the judgment delivered by the reference Court particularly on the ground of technicalities as are relied upon by the learned counsel for the appellant, will be of hardly any substance.

10. Considering the reasons furnished in the judgment by this Court in the appeal filed by appellants bearing First Appeal No.734/2008 along with other connected appeals and in First Appeal No. 486/2011 decided on August 30, 2016, in my opinion, the compensation awarded by the reference Court appears to be reasonable, which does not call for any interference. The appeal as such fails and is accordingly dismissed. No costs.