

(2017) 06 BOM CK 0154
In the Bombay High Court
Case No : 593 OF 2006

Maharashtra Industrial Development	APPELLANT
Vs	
Dayaram s/o Punajaji Marathe & Anr.	RESPONDENT

Date of Decision : 08-06-2017

Acts Referred:

Citation : (2017) 06 BOM CK 0154

Hon'ble Judges : Shalini Phansalkar-Joshi

Bench : SINGLE BENCH

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

Judgement

1.] This is an appeal preferred against the judgment and order dated 25.04.2006 in Land Acquisition Case No.450/1997, passed by Reference Court at Akola, thereby enhancing the compensation amount from Rs.80,000/- to Rs.1,00,000/- per hectare. The acquiring body, the M.I.D.C. has therefore, preferred this appeal challenging such enhancement of compensation.

2.] The point for determination is whether the Reference Court was justified in enhancing the compensation from Rs.80,000/- to Rs.1,00,000/- per hectare.

3.] With the assistance of the learned counsel for the appellant, I have gone through the judgment delivered by the Reference Court and also the relevant award as passed by the Land Acquisition Officer.

4.] The undisputed factual position is that the land belonging to the claimant, bearing Survey No.50/2 admeasuring 1 H 62 R came to be acquired for establishment of industrial colony, vide notification issued under Section 32(2) of the Maharashtra Industrial Development Act, published on 01.06.1995. Vide award dated 20.03.1997, the

Land Acquisition Officer had determined the rate of acquired land belonging to the claimant at the rate of Rs.80,000/- per hectare.

5.] The respondent-claimant, feeling aggrieved thereby made reference before the Trial Court contending inter alia that the compensation needs to be enhanced having regard to the potentiality, location and quality of the land. However, at the time of hearing, despite sufficient opportunity provided to the respondent-claimant to enter the witness box he failed to do so. As a result, in the absence of any evidence led on record by both the sides, the Reference Court considered the award itself and the compensation amount, as awarded by the Land Acquisition Officer to various other lands situated in the same village Shivani. It was found by the Reference Court that the Land Acquisition Officer has taken into consideration the sale instances at Sr. No.1, 4, 14 only. Moreover though reference was made by him to the sale instance at Sr. No.12, Land Acquisition Officer has not awarded the compensation at that rate. So far as the sale instances at Sr. Nos.1, 4 and 14 were concerned, the price was found to be Rs.74,000/- to 88,500/- and Rs.76,500/- respectively. The Reference Court held that as regards the sale instance at Sr. No.12 the price was stated to be Rs.1,60,000/-. The Reference Court held that hence it was desirable to calculate the mean rate of sale instances at Sr. No.1, 4, 12 and 14 to determine the fair and proper rate of acquired land. Accordingly, the Reference Court held the claimant entitled at the rate of Rs.1,00,000/- per hectare instead of Rs.80,000/- per hectare, as awarded by the Land Acquisition Officer.

6.] The submission of the learned counsel for the appellant is that the Reference Court has not at all considered the fact that no evidence was brought on record by the claimant to show the location, potentiality and quality of the acquired land or even to show that the acquired land is in any way situated near the sale instance at Sr. No.12. By producing copy of map for perusal of this Court, it is submitted that the land of sale instance at Sr. No.12 is situated far away from the land of the claimant and, therefore, the consideration of the said sale instance which was Rs.1,60,000/- could not have been used for drawing a mean. According to learned counsel for appellant, the Reference Court has, straightway, in the absence of any evidence, enhanced the amount of compensation and hence, the said judgment and award is liable to be quashed and set aside.

7.] I find much substance in the submission advanced by learned counsel for appellant. Perusal of the map

produced by the learned counsel for the appellant and the copy of the award makes it clear that the land of sale instance at Sr. No.12 is definitely far away from the acquired land of the claimant. It is also apparent that in the absence of claimant leading any oral or documentary evidence, the Reference Court has, by calculating some mean amount enhanced the amount of compensation from Rs.80,000/- to Rs.1,00,000/- per hectare.

8.] However, at the same time, having regard to the fact that increase in the compensation amount is only to the tune of Rs.20,000/- and hence, a meager one and having also regard to the fact that the entire amount of compensation is deposited and may be withdrawn by the claimant, this Court does not find it fit to interfere in the impugned judgment and order and therefore, holds that the appeal needs to be dismissed on this sole ground. Accordingly, the appeal stands dismissed with no order as to costs.