

(2016) 03 BOM CK 0111
In the Bombay High Court
Case No : First Appeal No. 831 of 2006

Maharashtra Industrial Development Corporation	APPELLANT
Vs	
Arun Ganpatrao Shende and others	RESPONDENT

Date of Decision : 21-03-2016

Acts Referred:

Maharashtra Industrial Development Corporation Act, 1968 — Section 34

Citation : (2016) 3 ALLMR 571 : (2016) 4 MhLJ 510

Hon'ble Judges : R.K. Deshpande, J.

Bench : Single Bench

Advocate : M.M. Agnihotri, Advocate, for the Appellant; R.S. Charpe, Counsel and N.P. Mehta, AGP, for the Respondent

Final Decision : Dismissed

Judgement

R.K. Deshpande, J. (Oral) - In Land Acquisition Case No. 25 of 1996, under Section 34 of the Maharashtra Industrial Development Corporation Act, 1968, the Reference Court has enhanced the compensation for dry crop land. The Reference Court has granted enhancement at the rate of Rs.30,000/- per hectare against the rate of Rs.15,000/- per hectare granted by the Land Acquisition Officer. The acquiring body is before this Court to challenge the enhancement so granted.

2. Shri Agnihotri, the learned counsel appearing for the appellant M.I.D.C, the acquiring body, raises the point that, there is no basis to hold that the lands in question were irrigated lands.

3. Shri Agnihotri, however, does not press the point regarding limitation decided by the trial Court on the ground that the Exh. 59 and the other documents placed on record shows that the notice was issued to the claimant asking him to remain present on 04.04.1994 to receive the amount of compensation. Thus, from 04.04.1994 the reference was filed within the period of limitation.

4. With the assistance of the learned counsels, I have gone through the findings

recorded by the Reference Court. In Paragraph No. 16, the Reference Court has held as under;

"16. In the instant case, the applicants came with the case that the lands acquired by the Land Acquisition Officer belonging to them are irrigated land. The applicants have filed the 7/12 extract (Exh.21 to Exh.25) on the record. I have carefully gone through the 7/12 extract. The 7/12 extract (Exh.21) is in respect of agricultural land bearing Survey No. 296/1 which is situated at village Maregaon. The 7/12 extract (Exh.21) clearly shows that the land bearing Survey No. 296/1 admeasuring 0.56 HR is irrigated land. The Land Acquisition Officer has also shown Survey No. 296/1 of village Moregaon as irrigated land in award (Exh.26). All the land except Survey No. 57 admeasuring 0.86 HR situated at village Akapur are dry crop land. The 7/12 extract (exh.25) clearly shows that the land bearing Survey No. 57 belonging to the applicants is irrigated land. The Land Acquisition Officer has also shown Survey No. 57 of Village Akapur as an irrigated land on the award (Exh.26) at page no.11."

5. The finding is based upon 7/12 extract as well the award at Exh.26 which clearly indicate that two survey Nos. i.e. 296/1 and part of Survey No. 57 were irrigated lands. It cannot, therefore, be said that the Reference Court has committed an error in holding that the lands were irrigated lands.

6. In view of above, there is no substance in the appeal. The same is dismissed.