

(2017) 06 BOM CK 0158
In the Bombay High Court
Case No : 155 of 2008

Maharashtra Industrial Development Corporation, through its Chief Executive Officer APPELLANT

Vs

Bhikabai Onkar Hivrare, & Anr. RESPONDENT

Date of Decision : 08-06-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Section 96](#) - Appeal from original decree
[Land Acquisition Act, 1894](#), [Section 54](#) - Appeals in proceedings before Court
[M](#)

Citation : (2017) 06 BOM CK 0158

Hon'ble Judges : Shalini Phansalkar-Joshi

Bench : SINGLE BENCH

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

Final Decision : Dismissed

Judgement

1. This appeal is preferred under Section 54 of the Land Acquisition Act read with Section 96 of the Code of Civil Procedure, challenging the judgment and order dated 06.02.2006 passed by the Reference Court at Akola in Land Acquisition Case No.313/1997, thereby enhancing the amount of compensation from Rs.55,000/to Rs.77,000/per hectare.

2. The factual position is to the effect that the land admeasuring 2 H 2 R, bearing Gat No.127, situated at village Shivani was belonging to the respondentclaimant, which came to be acquired for establishment of the industrial colony, by virtue of notification under Section 32(2) of the Maharashtra Industrial Development Act published on 13.08.1992. The Land Acquisition Officer fixed the compensation for the said land at the rate of Rs.65,000/per hectare, vide his award dated 20.03.1997.

3. Being aggrieved and not satisfied with the said amount of compensation, the

respondentclaimant approached the Reference Court, contending inter alia that the acquired land on the date of notification valued at the rate of Rs.1.5 to 2 lakh per acre, considering that land is having agricultural as well as nonagricultural potentiality. It was submitted that the land is situated adjacent to the municipal limit of Akola City and lands adjacent to the acquired land are already converted into nonagricultural use. Some of the industries, godowns, residential colonies are existing adjacent to the acquired land. According to the respondent, the Land Acquisition Officer has, ignoring these factors, granted negligible amount of compensation and, therefore, the said compensation needs to be enhanced.

4. The learned Reference Court, after hearing both the parties found that amount of compensation needs to be enhanced from Rs.55,000/to Rs.77,000/per hectare. While doing so, the learned Reference Court calculated the mean of various sale instances, which were cited or considered in the award as in this case no oral or documentary evidence was led by the claimant or the acquiring body.

5. According to learned counsel for appellant as, there was no evidence produced on record by the claimant to prove that the compensation awarded by the Land Acquisition Officer was not in proportionate to the potentiality, location and quality of the land, then there was no question for the Reference Court to enhance the compensation from Rs.55,000/to Rs.77,000/per hectare. It is submitted that the method adopted by the Reference Court of looking into the sale instances considered by the Land Acquisition Officer in the award and drawing the mean there of and on that basis enhancing the compensation amount, was not at all proper.

6. It is an undisputed factual position that no evidence was led by the respondentclaimant in support of his contention that the acquired land deserves more amount of compensation.

7. Hence, it may be true that there was no evidence before the Reference Court to enhance the compensation from Rs.55,000/to Rs.77,000/per hectare. However, having regard to the detail discussion to that effect in the impugned judgment and mainly considering meager amount of enhancement, which is to the tune of Rs.20,000/only, this Court is reluctant to interfere in the said award, especially when the amount is already deposited by the appellant in the Court and there is every possibility of respondent having withdrawn the same. Therefore, on this sole ground, the appeal needs to be dismissed and accordingly stands dismissed.