

(2017) 06 BOM CK 0157
In the Bombay High Court
Case No : 137 of 2008

Maharashtra Industrial Development Corporation, through its Chief Executive Officer APPELLANT

Vs

Shashimohan Suganchand Tapadiya, & Ors. RESPONDENT

Date of Decision : 08-06-2017

Acts Referred:

Land Acquisition Act, 1894, Section 4, Section 18 - Publication of preliminary notification and powers of officers thereupon. - Reference to Court
Maharashtra Industrial Devel

Citation : (2017) 06 BOM CK 0157

Hon'ble Judges : Shalini Phansalkar-Joshi

Bench : SINGLE BENCH

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

Final Decision : Dismissed

Judgement

1. In Land Acquisition Case No.444/1997 filed under Section 34 of the Maharashtra Industrial Development Act, 1961 read with Section 18 of the Land Acquisition Act, 1984, the Reference Court at Akola has enhanced the compensation for acquisition of land belonging to the respondents No.1 and 2 at the rate of Rs.1,00,000/per hectare by its judgment and order dated 01.03.2006. Being aggrieved there by, the acquiring body, the Maharashtra Industrial Development Corporation, has filed this appeal challenging the enhanced compensation from Rs.80,000/per hectare to Rs.1,00,000/lakh per hectare.

2. The only 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, especially in the absence of any oral or documentary evidence brought on record, to that effect by the claimants/respondents.

3. It is a matter of record that the respondent No.1 has entered into the witness box, but not produced any documentary evidence to justify the enhancement of

the compensation. Hence, the submission of learned counsel for the appellant is that the enhancement of compensation from Rs.80,000/to Rs.1,00,000/was not at all warranted. It is also not reasonable, but it is arbitrary. It is submitted that the Reference Court has ignored the award passed by L.A.O. which was based on the comparable sale instances.

4. The undisputed factual position brought on record in this case is that the land admeasuring 20 R situated in Gat No.33/1 at village Shivani was owned by the respondent Nos.1 and 2 and it was subjectmatter of the acquisition by the notification dated 13.08.1992 issued under Section 32(2) of the Maharashtra Industrial Development Act read with Section 4 of the Land Acquisition Act. While deciding the compensation for the said acquired land, the Land Acquisition Officer considered the various sale instances and accordingly, fixed the compensation at the rate of Rs.80,000/per hectare. However, when the same was challenged before the Reference Court, the Reference Court considered the evidence of the claimant and also the amount of compensation as awarded by the Special Land Acquisition Officer to other lands, which are situated in the same village and acquired under the same award. The Reference Court considered that in the award, two different sale instances were considered according to which the acquired land could easily fetch value at the rate of Rs.92,000/per hectare at the relevant time. In the circumstances, by taking into consideration 10% p.a. minimum growth in the rates, it was found that the Land Acquisition Officer should have determined the rate of acquired land at Rs.1,00,000/lakh per hectare. Accordingly, the Reference Court enhanced the compensation amount from Rs.80,000/to Rs.1,00,000/lakh per hectare.

5. According to learned counsel for appellant, there was no evidence before the Reference Court as adduced by the respondentclaimants to justify such enhancement. Especially in the absence of any evidence regarding the nature, quality, potentiality and location of the comparable lands or the comparable sale instances, according to him, the Reference Court should not have enhanced the amount of compensation. However, in my opinion it cannot be ignored that the Special Land Acquisition Officer has awarded the compensation at different rates to different lands though situated in the same village and the Reference Court has considered the amount of sale instances relied upon by L.A.O. himself while awarding the enhanced amount of compensation from Rs.80,000/to Rs.1,00,000/per hectare.

6. Hence, considering the amount of compensation which is enhanced by the Reference Court and having regard to the fact that there is sufficient discussion and reasoning given by the Reference Court in para 9 of the judgment, this Court is reluctant to interfere in the said judgment and award. It is pertinent to note that there is absolutely no crossexamination of the claimant as regards the quality, potentiality and the location of the land. According to the claimant, the land is adjacent to the National Highway for which, the land was finally acquired. Moreover, the land is connected with roads and it has approach road. From there

city buses are available to the number of destinations. It is his evidence that the potentiality of the land could easily fetch the market price of Rs.10/to 12/per sq.ft. even at the time of date of acquisition of the land. In the cross-examination the evidence this witness is not seriously challenged and hence having regard to all these facts, this Court does not find any reason to interfere in the impugned judgment and award, as passed by the Tribunal enhancing the compensation amount from Rs.80,000/to Rs.1,00,000/per hectare. The appeal therefore, stands dismissed.

7. It is submitted that the entire amount of compensation is already deposited and therefore, the claimants are at liberty to withdraw the same.