
(2015) 06 BOM CK 0307
In the Bombay High Court
Case No : F.A. No. 457 of 2003

Marotisa and Others

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 09-06-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 4, 4(1), 6, 9

Citation : (2015) 6 MhLj 256

Hon'ble Judges : A.P. Bhangale, J.

Bench : Single Bench

Advocate : S.U. Nemade, for the Appellant; Ekre, A.G.P., for the Respondent

Final Decision : Partly Allowed

Judgement

A.P. Bhangale, J.—The appellants herein question judgment and award in L.A.C. No. 40 of 1991 rendered by learned Joint Civil Judge Senior Division, Wardha on 27-3-2003. The grievance of the appellants is that the appellants had adduced cogent evidence of three witnesses so as to invite award from the Reference Court. According to learned counsel for the appellants, in an identical case which referred to the evidence of the witnesses while award was passed by the said Reference Court in LAC No. 3 of 1988 in the matter of Radhabai Qiaganlal Chandak vs. State of Maharashtra and Anr. decided on 31-3-1989, the Reference Court had concluded in paragraph No. 20 of the judgment (vide Exh. 33 in record), thus:

"Thus, I come to the conclusion that the applicant is entitled for compensation for the dry crop land which comes to 13.34 acres at the rate of Rs. 20,000/- per hector i.e. Rs. 8,000/- per acre, and at the rate of Rs. 30,000/- per hector i.e. Rs. 12,000/- per acre for the 8 acres of irrigated land. Thus, total compensation for dry crop land of 13.34 acres comes to (13.34 acres x Rs. 8000/-) Rs. 1,04,000/-, and the total compensation for irrigated land of 8 acres comes to (8 acres x Rs. 12,000/-) Rs. 96,000/-. Thus, total compensation for the land for which the applicant is entitled comes to Rs. 1,04,000/- + Rs. 96,000/- = Rs.

2,00,000/-."

2. Thus, compensation was calculated and balance amount was awarded in the form of additional amount to be paid with interest at the rate of 12% per annum from the date of Notification under section 4(1) of the Land Acquisition Act, 1894 (for short, "the said Act") till the date of award of the Collector or the date of taking possession of the land whichever is earlier after deducting the amount of compensation already paid and the interest at the rate of 9% per annum from the date of payment of compensation as per the award till one year and thereafter at the rate of 15% per annum till the date of deposit in the Court of the excess compensation awarded by the Court. Thus, it is submitted that Notification in the present case under section 4 of the said Act was issued on the same date i.e. 30-5-1980 and the process of Notification under sections 6 and 9 of the said Act and award under section 11 was passed on 7-5-1982 at the rate of Rs. 10,000/- per hectare for the dry crop land and the total compensation for standing tree (39 mango trees and 4 Babul trees) was granted in the total sum of Rs. 21,178/-.

3. Shri S.U. Nemade, learned counsel, submits that for enhancement of the compensation evidence of three witnesses along with documents inclusive of Exh. 33 judgment and award in Radhabai's case was also submitted before the Reference Court. The said judgment and award became final. Shri Ekre, learned Assistant Government Pleader, went through the record of the case including Exhs. 32 and 33 which are judgment and award and do not dispute that amount of compensation at the rate of Rs. 20,000/- per hectare of land was awarded in the Radhabai's case and that the said judgment and award attained the finality because the application for condonation of delay preferred by the State of Maharashtra was rejected in connected First Appeal No. 198 of 1990 by order dated 1-2-2013 passed by this Court. In the facts and circumstances which are identical in record of First Appeal No. 198 of 1990, judgment and award (Exh. 33) and in the present case as to the facts regarding issuance of Notification under sections 4, 6 and 9 and award under section 11 etc. compensation at the same rate as granted in the judgment and award Exh. 33 in the record can be granted. The compensation awarded in the sum of Rs. 21,178/- for the trees is maintained without any interference with the same. However, the compensation for the acquired land in this case i.e. Survey No. 28 admeasuring area of 2H 24R which is dry crop land acquired for Upper Wardha Project compensation be paid at the same rate of Rs. 20,000/- per hectare. Consequential statutory benefits as to statutory interest etc. shall also be paid accordingly as indicated in the judgment and award (Exh. 33).

The first appeal is, therefore, partly allowed accordingly with a direction to the respondent to pay compensation at the rate of Rs. 20,000/- per hectare together with additional amount of interest i.e. 12% per annum on the unpaid additional amount from the date of Notification under section 4(1) of the said Act till the date of the award passed by the Collector or the date of taking possession of the

land by the respondent whichever is earlier after deducting the amount of compensation already paid together with interest at the rate of 9% from the date of taking possession (to be proved by the applicant) till the date entire sum of compensation is paid as per award made final of this order. The unpaid balance amount of compensation shall carry interest at the rate of 9% per annum from the date of the payment of compensation as per award until one year and thereafter at the rate of 15% per annum till the date of depositing in the Court the additional compensation awarded pursuant to this order. Award as to acquisition of the trees is maintained but the prayer for additional compensation for the trees is rejected. The respondent shall bear its own costs as well as proportionate costs of the appellants. The appeal is partly allowed accordingly. No order as to costs.