

(2012) 10 BOM CK 0026

In the Bombay High Court

Case No : F.A. No"s. 808, 810, 816, 831, 852 and 853 of 2007

State of Maharashtra and Another etc.

APPELLANT

Vs

Moti Ram Sampat Kale, etc.

RESPONDENT

Date of Decision : 10-10-2012

Acts Referred:

Citation : (2012) 2 EFLT 914

Hon'ble Judges : M.N. Gilani, J

Bench : Single Bench

Advocate : S.M. Bhagde, A.G.P, for the Appellant;

Final Decision : Dismissed

Judgement

M.N. Gilani, J.—These appeals are from the judgment and award passed by the Reference Court-Buldhana in the references sought by the land owners, whose lands were compulsorily acquired for Minor Irrigation Tank, village Sawangi Mali, taluka Mehkar, district: Buldhana. The particulars of the survey number, land area acquired, compensation awarded by the Special Land Acquisition Officer and compensation enhanced by the learned Reference Court Buldhana are reproduced below:

2. Mr. Yengal, learned A.G.P. appearing for the State-acquiring body contended that the learned Reference Court committed an error by enhancing the amount of compensation @ Rs. 35,000/- for the dry-crop lands and Rs. 56,619/- per hectare for irrigated land. According to him the material placed on record does not justify any enhancement.

3. None appeared for the respondents.

4. The point that arises for my consideration is as under:

Whether the compensation enhanced by the learned Reference Court is just and fair?

5. Ex-facie, whatsoever the amount of compensation awarded appears to be on lower side. The compensation awarded @ Rs. 35,000/- per hectare for dry-crop land and @ Rs. 56,619/ per hectare for irrigated land, for the land acquired vide notification of the year 1990, in no circumstance can be said to be on higher side. This is apart from the fact that the judgment and award enhancing the amount of compensation to the extent stated above is supported by the evidence in the nature of sale transaction.

6. The land owners placed reliance upon the sale instance between Eknath Trimbak and one Bhagabai Maroti which is dated 23.4.1987. The land admeasuring 0.42 R was sold for consideration of Rs. 17,000/-. In support of this there is evidence of one Eknath. He deposed that he had sold 1 acre and 2 gunthas land for consideration of Rs. 17,000/- to one Bhagabai. The copy of the sale-deed at exhibit 44 was produced. There is nothing in his cross-examination to suggest that the sale instance is not genuine. The learned Reference Court rightly considered the same while observing thus:

In the instant group of claims the claimants have placed their reliance on the sale instance dated 23rd April, 1987. Wherein the land bearing Gat No. 95 admeasures 42-R was sold by P.W.2 Eknath Bhople for valuable consideration of Rs. 17,000/-. The notification u/s 4 was published on 28.6.1990 and the said sale instance occurred much prior to notification u/s 4. The said sale instance is pertaining to land at village Sawangi Vihir, it is adjacent to the outskirts of village Sawangi Mali. The learned Counsel Shri G.D. Kavimandan, argued that no sale transaction occurred from village Sawangi Mali as the suit lands were of superior quality having perennial source of water. The LAO, while awarding the compensation has also considered the sale instance from village Sawangi Vihir and therefore, in the set of circumstances the sale instance dated 23.4.1987 appears to be genuine and reliable.

7. Considering the fact that the sale instance was of the year 1987, the learned Reference Court increased the value by 10% for every year and then arrived at the rate of Rs. 52,619/- for irrigated land and Rs. 35,000/- for the dry crop land. Absolutely there is no scope for interference with the judgment and award passed by the learned Reference Court. Frankly speaking the amount of compensation awarded is on lower side. Thus, there is no merit in these appeals. Appeals are dismissed accordingly. No order as to costs.