
(2002) 07 BOM CK 0037
In the Bombay High Court
Case No : First Appeal No. 256 of 2002

State of Maharashtra

APPELLANT

Vs

Krantikumar Ramaji Waghmare

RESPONDENT

Date of Decision : 23-07-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2002) 4 ALLMR 706 : (2003) 1 BomCR 158

Hon'ble Judges : D.Y. Chandrachud, J

Bench : Single Bench

Advocate : A.M. Deshpande, A.G.P, for the Appellant; S.P. Kshirsagar, for the Respondent

Final Decision : Dismissed

Judgement

D.Y. Chandrachud, J.—Admit. Learned Counsel for the respondent waives service. By consent, taken up for hearing and final disposal.

2. This first appeal is directed against a judgment and order dated 23rd February, 1999 of the learned Additional District Judge, Bhandara, in a group of references u/s 18 of the Land Acquisition Act, 1894 (for short, the Act).

3. The respondent was the owner of land bearing Gat No. 179 to the extent of 2.02 hectares, out of which, a total extent of 0.73 hectares land came to be acquired for the purpose of the Indira Sagar Canal. The lands are situated at Mauza Korambi in the District of Bhandra. A notification u/s 4 of the Act was issued on 5th January, 1990 and the declaration u/s 6 came to be issued on 6th February, 1991. The Special Land Acquisition Officer made his Award on 31st March, 1992 and while granting compensation adjudged the market value of the lands acquired at the rate of Rs. 22,000/- per hectare. By the impugned judgment and order dated 23rd February, 1999, the learned Additional District Judge has enhanced the compensation from Rs. 22,000/- per hectare to Rs. 25,000/- per hectare.

4. When this first appeal came up for hearing the attention of the Court was drawn to an order of the learned Single Judge of this Court dated 30th April, 2002 passed in First Appeal No. 177/2002. The order of the learned Single Judge arose out of an appeal filed by the State in one of the reference applications which came to be disposed of by a common judgment and order dated 23rd February, 1999 of the learned Additional District Judge, Bhandara, which is also impugned in the present case. After considering the evidence which was adduced before the Reference Court, the learned Single Judge had held that the judgment and order of the Reference Court does not call for interference in so far as the Reference Court has granted an enhancement of compensation from Rs. 22,000/- to Rs. 25,000/- per hectare. The appeal filed by the State has accordingly been dismissed. The order of the learned Single Judge relates to lands situated in the same village and which have been acquired for the same public purpose under a common notification dated 5th January, 1990 issued under the Act.

5. In view of the fact that the learned Single Judge of this Court had already confirmed the order of the Reference Court though in relation to one of the reference cases, on 30th April, 2002, I directed with the consent of learned Counsel, that the first appeal be placed for hearing and final disposal at the stage of admission. The record and proceedings was also called for. With the assistance of the learned Counsel for the parties I have perused the record and proceedings and I have gone through the relevant part of the documentary as well as oral evidence.

6. In the present batch of cases, evidence was duly adduced before the Reference Court in support of the application for enhancement of compensation. Before the Reference Court, a sale transaction of agricultural lands at Mauza Khaksi was produced and marked in evidence as Exhibit 32. The lands in the sale instance were comprised in Gat No. 19/1 admeasuring 40 acres and the sale transaction took place in the year 1989. The purchaser deposed in support of the sale transaction and he stated that the land which he had purchased was situated at a distance of 1 furlong from the acquired land. The land had been purchased in the year 1989 at the rate of Rs. 35,000/- per acre. The sale instance was proximate in time to the notification u/s 4 in the present case. The lands forming part of the sale transaction were situated in close proximity of the acquired lands. The sale instance could, therefore, have been safely relied upon.

7. Apart from this sale instance, it would be necessary to take a note of the testimony of one of the witnesses, who deposed on behalf of the appellant-State. D.W. 1 Shankar Daulat Dhawale, was a talathi at Mauza Korambi. In the course of his cross-examination, the witness admitted that the lands of all the claimants in the batch of references were situated in close proximity of the road, and that the lands had a lift irrigation facility. The witness has also admitted that it was true that in the years 1988-89 and 1990, lands in the proximity had been sold at the rate of Rs. 35,000/- to Rs. 40,000/- per acre. The witness also stated that

the fields which have been acquired were double crop lands. Having regard to the aforesaid evidence, it is clear that the lands which have been acquired were irrigated. The sale instance showed that in 1989 there was a transaction relating to comparable land to the extent of 40 acres which came to be sold at the rate of Rs. 35,000/- per acre.

8. Having regard to all these facts and circumstances of the present case, I am of the view that the enhancement which has been granted by the Reference Court does not call for any interference in the first appeal. The enhancement is to an extent only of Rs. 3,000/- per hectare. There was ample evidence before the Reference Court to justify the enhancement. Therefore, after having perused the record and proceedings and upon considering the evidence which was adduced before the Reference Court, I am in respectful agreement with the view which has been taken by the learned Single Judge of this Court while deciding First Appeal No. 177 of 2002 by the order dated 30th April, 2002. In the circumstances, there is no merit in the first appeal. The first appeal is accordingly dismissed.