

(2012) 10 BOM CK 0096
In the Bombay High Court
Case No : First Appeal No. 1140 of 2008

State of Maharashtra

APPELLANT

Vs

Suresh Ambadas Wagh

RESPONDENT

Date of Decision : 31-10-2012

Acts Referred:

Citation : (2012) 10 BOM CK 0096

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

Bench : Single Bench

Advocate : D.B. Yengal, AGP, for the Appellant;

Final Decision : Dismissed

Judgement

M.N. Gilani, J.—All these four appeals are arising from the common judgment and award dated 29.11.2004 passed in Land Acquisition Case No. 171/2002, 174/2002, 173/2002 and 179/2002, whereby the compensation awarded by the Special Land Acquisition officer for the lands compulsorily acquired for the project- percolation tank, was enhanced to Rs. 50,000/- per hectare. The details of the lands acquired are as under:

Mr. Yengal, learned A G P appearing for the state contended that no evidence was placed before the Reference Court to justify enhancement in the amount of compensation to any extent. According to him, the sale deed relied upon being of the year 1980, is not relevant since it is not proximate from time angle.

2. None appeared for the respondents.

3. The point that arises for consideration is:

A] Whether the learned Reference Court was justified in awarding compensation @ Rs. 50,000/- i.e. about Rs. 20,000/- per acre ?

4. Honestly speaking there was no reason for the state to file appeal when compensation awarded ex-facie appears very meager and on the lower side. The

Special Land Acquisition Officer fixed the market value at Rs. 35,000/- P.H. was enhanced by Rs. 10,000/-. It is pertinent to note that all these lands were under cultivation. Crop pattern suggest that crops like cotton, hybrid jwar, pulses were grown in the land. Evidence has been lead to the effect that the land acquired was having black cotton soil with basic facilities like hospital, bus stop, schools etc. The market places like Jamthi, Malkapur etc. are in close proximity. By adopting any method to determine the market value, in no circumstance the value of such fertile land and which is under cultivation, can be less than Rs. 20,000/- per acre.

5. The claimants produced on record the sale instance Exhibit 25 in L.A.C. No. 114/2002 which is of the year 1980. The land area 2 acre and 5 gunthas was sold for a consideration of Rs. 20,000=00. The learned Reference Court was not inclined to consider the same because it was not proximate from time angle. The fact remains that the prices of the lands have increasing trend. This is a universal truth. In absence of any other evidence and particularly evidence in rebuttal, complete ignorance of such evidence, is not justified.

6. The Reference Court made mention of the sale instance relied upon by the Special Land Acquisition Officer while determining the amount of compensation. It seems that none of these sale instances were produced on record and therefore, ought not have been considered. The other piece of evidence relied upon by the learned Reference Court is a decision rendered in other land acquisition references. Those references were about the land of the same village acquired compulsorily. Although, I do not subscribe to the approach of the learned Reference Court in dwelling into the evidence considered by the Land Acquisition Officer in those cases, however, as has been stated earlier, the compensation awarded @Rs. 50,000/- per hectare i.e. about Rs. 20,000/- per acre for the lands acquired in the year 1998 being very much on the lower side, no interference with the judgment and award is warranted. All these appeals are dismissed. There shall be no order as to costs.