

(2018) 02 BOM CK 0036
In the Bombay High Court
Case No : 848 of 2002

The State of Maharashtra

APPELLANT

Vs

Harchand Rajaram Chambhar

RESPONDENT

Date of Decision : 15-02-2018

Acts Referred:

Citation : (2018) 02 BOM CK 0036

Hon'ble Judges : M.S.Sonak

Bench : Single Bench

Advocate : B.V.Virde, P.A.Bhosale, A.B.Kale, G.B.Rajale

Judgement

1. Heard the learned counsel for the parties. Learned counsel for the parties submits that these three appeals can be disposed of by common Judgment and order, since the facts and issues, which arise are common.

2. The challenge in these appeals is to the common Judgment and award dated 17.4.2000 made by the Reference Court in L.A.R. Nos.1173 of 1998, 1174 of 1998 and 1175 of 1998. Therefore, it will be appropriate that these appeals be disposed of by a common Judgment and order.

3. Mr.B.V.Virde learned AGP for the appellant submits that the enhancement granted by the Reference Court by relying upon the sale instance at Exh.15 is not proper because the sale instance was admittedly not in respect of land from the same village i.e. Umale from which the

lands of respondents/claimants came to be acquired. He submits that in absence of any evidence as to comparability, the Reference Court was not justified in relying upon the sale instance at Exh.15 and on such basis award any enhancement.

4. Mr.P.A.Bhosale, the learned counsel for respondent in First Appeal No.850 of 2002 submits that the enhanced compensation in the present case is well within the limits specified in the Government Resolution dated 3.11.2016, which incorporates a policy decision of the State Government not to pursue appeals of such nature. Besides, he pointed out that Sale-Deed at Exh.15 was from village Devhari, which share common boundary with village Umale. He points out that there were no sale instances from village Umale available and the appellant State also did not produce any such sale instance, if at all they were indeed available. In these circumstances, Mr.Bhosale learned counsel submits that there can be no infirmity whatsoever in the approach of the Reference Court in ordering the enhancement by relying upon sale instance at Exh.15. He points out that the sale instance was duly proved by examining PW-2 Mr.Uttam Suka Patil, the vendor. For all these reasons, Mr.Bhosale learned counsel submits that there is no infirmity in the impugned Judgment and award and therefore, the appeals instituted by the State are liable to be dismissed.

5. Mr.G.B.Rajale learned counsel for the respondent/claimant in First Appeal No.848 of 2002 also submits that there is absolutely no infirmity in the reasoning of the Reference Court and therefore, these

appeals are liable to be dismissed.

6. In these appeals, it is quite clear that the enhancement granted by the Reference Court is well within the limits specified in the Government Resolution dated 3.11.2016. This Government Resolution relates to a policy decision of the State Government not to pursue appeals where the enhancement granted by the Reference Court is less than four times of the Ready Reckoner Rate prevalent on the date of issuance of Section 4 Notification. However, since there were no written instructions to withdraw these appeals, the learned AGP made his submissions on the merits of the matter.

7. Respondents/claimants apart from their own deposition through one of the claimants, who hold Power of Attorney on behalf of other claimants, have also examined the vendor Mr.Uttam Suka Patil as PW-2 in respect of sale instance at Exh.15. This sale instance indicates that by Sale-Deed dated 11.5.1992 land ad-measuring 3 Hectare 35 Are was sold for consideration of Rs.75,000/- to Dr.Bhulchand Chimandas Takwani. In terms of this Sale-Deed, the rate comes to Rs.22,388/- per Hectare. The Sale-Deed was executed on 11.5.1992 and the acquisition was in pursuance of Section 4 Notification dated 2.5.1993. The Reference Court has therefore quite correctly considered the escalation of 10% and on such basis determined rate as Rs.24,626/- per Hectare.

8. There is evidence on record that the village Umale and village Devhari share common boundary. The Reference Court has also noted that there were no sale transactions from village Umale. As correctly pointed out by

Mr.P.A.Bhosale learned counsel, even the State has produced no evidence of sale instance from village Umale assuming that there were sale instances from village Umale. In this case, Sale-Deed is related to Jirayat land and acquired lands are also classified as Jirayat lands. Further, the Reference Court taking into consideration that the sale instance is from neighbouring village has reduced the rate from Rs.24,626/- per Hectare to Rs.22,000/- per Hectare. There is really no legal infirmity in the reasoning or the approach of the Reference Court

9. Upon cumulative consideration of the aforesaid, there is no case made out to interfere in the impugned Judgment and award. These appeals are therefore, dismissed. There shall be no order as to costs.