

(2017) 07 BOM CK 0295
In the Bombay High Court
Case No : 349 of 2006

Western Coal Fields Ltd., through its Chief General Manager	APPELLANT
Vs	
Shankar s/o Babulal Thakur, (dead) through its Lrs., & Ors.	RESPONDENT

Date of Decision : 19-07-2017

Acts Referred:

Land Acquisition Act, 1894, Section 4, Section 18 - Publication of preliminary notification and powers of officers thereupon. - Reference to Court

Citation : (2017) 07 BOM CK 0295

Hon'ble Judges : Shalini Phansalkar-Joshi

Bench : SINGLE BENCH

Advocate : A.S. Mehadia, R.S. Charpe, M.A. Kadu

Final Decision : Dismissed

Judgement

1. This appeal is directed against the judgment and order dated 31.01.2006, passed by Civil Judge, Senior Division, Chandrapur in Land Acquisition Case No.164/1994, thereby enhancing compensation of the acquired land at the rate of Rs.74,000/per hectare from Rs.30,000/per hectare, as awarded by the S.L.A.O.
2. Brief facts of the appeal can be stated as follows: Respondent No.1 was the owner of the land, bearing Survey No.72/1, admeasuring 1.07 hectare and situated at Mouza Kawdi, Taluka Bhadrawati, District Chandrapur. By virtue of notification under Section 4 of the Land Acquisition Act, which was published in the Government Gazette on 25.04.1990, the said land came to be acquired for coalmine. The Land Acquisition Officer, vide his award dated 25.02.1993, granted the compensation for the acquired land at the rate of Rs.30,000/per hectare. Therefore, the compensation for the land of respondent No.1, which was admeasuring 1.07 hectare worked out to Rs.32,100/.
3. Being not satisfied with this meagre amount of compensation awarded by the S.L.A.O., respondent No.1 approached the Reference Court under Section 18 of the Land Acquisition Act, contending inter alia that, considering the potentiality

and the fertility of the land, which was irrigated from the water of Wardha river, the market value of the said land was far higher than the amount of compensation granted by the S.L.A.O. It was submitted that people of the village Kawdi and other villages situated within the radius of 5 Km. have sold their dry crop land at the rate of Rs.55,000/to 60,000/per acre prior to the publication of notification, thereby clearly indicating that the market value of the said land cannot be less than Rs.65,000/per acre. Accordingly, respondent No.1 claimed the compensation at the rate of Rs.55,000/per acre.

4. This petition came to be resisted by the appellant contending inter alia that the compensation awarded by the S.L.A.O. is just, proper and in accordance with the provisions of the Land Acquisition Act and the evidence produced before him. Therefore, no interference was warranted in the same.

5. On these respective pleadings of the parties, the Reference Court framed necessary issues for its consideration vide Exh.10. In support of his case, respondent No.1 examined himself. The appellant did not lead any oral or documentary evidence.

6. Hence, on appreciation of the evidence of respondent No.1, the Reference Court was pleased to enhance the compensation for the acquired land from Rs.30,000/to Rs.74,000/per hectare.

7. In this appeal, I have heard learned counsel for appellant and respondent and in the light of the rival submissions made by them the only point, which arises for my determination is whether the Reference Court was justified in enhancing the compensation from Rs.30,000/per hectare to Rs.74,000/per hectare.

8. In this case, the evidence of respondent No.1 goes to show that he has purchased agricultural land from Anjanabai Bapurao Chincholkar for a valid consideration of Rs.80,000/, just a month before the issuance of notification under Section 4 of the Land Acquisition Act on 25.04.1990, by registered saledeed dated 28.03.1990. The certified copy of the said saledeed is also produced on record at Exh.40.

9. There is also some other evidence produced by the respondent No.1, which is certified copy of IndexII of Mouza Kawadi at Exh.29 to 33. Sale IndexII Exh.29 is in respect of agricultural land bearing Survey No.58/1 situated in the same village Kawadi, under which Shri Maroti Bajirao Satpute, resident of Warora purchased the said land for a valid consideration of Rs.72,000/per hectare from one Dada Vithu Khuspute. Sale IndexII Exh.30 pertains to the purchase of the land by Dada Bhugan from Purushottam Khuspute. The saledeed was executed on 29.12.1989 for the area 0.56 R and it was for a consideration of Rs.80,357/per hectare. The sale instance at Exh.31 is again of the land situated in the same village and it is Survey No.58/2 admeasuring 0.81 R. It was executed on 28.12.1989 for consideration of Rs.74,074/per hectare. The sale instance at Exh.32 was of the transaction pertaining to the land bearing Survey No.265 and it was for consideration of Rs.76,271/per hectare. The sale instance at Exh.33 is

of the land bearing Survey No.234 admeasuring 0.47 R. It was executed on 29.10.1986 at the rate of Rs.1,04,253/per hectare.

10. The Reference Court has considered all these sale instances and came to conclusion that the average price of the acquired land during the relevant period comes to Rs.75,675/per hectare.

11. After having regard to the entire evidence produced on record by the respondent No.1 and on the basis of comparable sale instances, the Reference Court has thus rightly enhanced the compensation for the acquired land from Rs.30,000/per hectare to Rs.74,000/per hectare. The said enhancement being based on the evidence on record and being just reasonable and fair, no interference is warranted therein. The appeal therefore, being without merit stands dismissed.