

Received On :- 13.12.2000
Registered On :- 20.12.2001
Decided On :- 17.08.2012
Duration :- 10Y.07M.27D

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION

AT : PARANDA.

(Presided over by G.B.Jadhav)

Land Acquisition Reference Old No.835/2001
Land Acquisition Reference New No.414/2011

Exhibit No.14

Bhairu Santram Kokate,
Age Major, Occ. Agril,
R/o. Kumbheja, Tq.Paranda,
Dist. Osmanabad.

... **CLAIMANT.**

... **Versus** ...

The state of Maharashtra,
through The Collector,
Osmanabad.

... **RESPONDENT.**

Claim : Reference Under section 18 of the Land Acquisition
Act for enhancement of compensation.

Shri. M. S. Patil, learned advocate for the Claimant
Shri. M. M. Kadam, learned A.G.P for respondent .

JUDGMENT

(Delivered on 17.08.2012)

1. This is a reference petition Under Section 18 of the Land Acquisition Act, for enhancement of compensation amount, in respect of the acquired land Sy.No.46/1 Gat No.192 to the extent of 03H. 64R (in which half share) situated at village Kumbheja, Tq.Paranda, Dist. Osmanabad.

2. In brief the facts of the claimant's case are as under :-

That the claimant is resident of village Kumbheja, Tq.Paranda, Dist.Osmanabad. He is owner and possessor of land Sy.No.46/1 Gat No.192 to the extent of 03H. 64R (in which half share) situated at village Kumbheja, Tq.Paranda, Dist. Osmanabad. The land is irrigated land by water of well and said well is situated in acquired land. Respondent/Government has acquired the same land to the extent of 63 R land for the construction of Sina Kolegaon Medium Project in the acquisition proceeding held in file No.1994/LNQ/CR-43. It is the contention of the claimant that the notices U/Sec.4, 9(3) and 12 of the Land Acquisition Act were not served properly to him as required by law. He had submitted his claim in reply to the notice U/Sec.9(3)(4) of the Land Acquisition Act. But, the Land Acquisition Officer has not considered his claim while passing the award. The Land Acquisition Officer has passed the award on 02.03.2000 and he got knowledge about the passing of award first time on 05.07.2000, when he received the notice U/Sec.12(2) of the Land Acquisition Act. He has withdrawn the amount of compensation of the acquired land on 12.06.2000 reserving his right to approach to the Civil Court. Being dissatisfied with the award, he has filed this reference petition.

3. It is the contention of the claimant that the acquired land was irrigated land by the water of well and well is situated within the irrigated land. It is perfect black cotton soil of superior quality. He was taking the cash crops and seasonal crops. He was used to take double crop in the acquired land. The market price of the acquired land was more than Rs.1,00,000/- per acre. It is the contention of the claimant that the Land Acquisition Officer while passing the award has not considered the above

mentioned things. Land acquisition Officer has awarded the very inadequate compensation and it does not reflect the true market price.

4. The claimant has claimed the compensation as under;

1.	compensation for the acquired land adm.63R at the rate of Rs.1,00,000/- per acre	:- Rs.1,57,000/-
2.	Compensation for well which is 60 feet in depth and 30 feet in width which is constructed by carved stone in which claimant is having ½ share	:- Rs.1,25,000/-
3.	Compensation for 1000 feet pipeline	:- Rs. 50,000/-
4.	Compensation for one tal	:- Rs.20,000/-
5.	Compensation for one Jambhul tree	:- Rs.10,000/-
6.	Compensation for two ber trees	:- Rs.10,000/-
7.	Compensation for severance	:- Rs.25,000/-
	Total	----- :-Rs.3,97,000/-

It is the contention of the claimant that he is entitled to get the net amount of compensation of Rs.3,97,000/- . He has received the amount of compensation Rs.97,000/- including solatium and interest. After deducting the same received amount, he is entitled to get the amount of Rs.3,00,000/- excluding solatium and interest. Hence, he has claimed the compensation for Rs.3,00,000/- alongwith all statutory benefits.

5. The respondent has resisted the claim of the claimant by filing written statement at Exh.09. He has not disputed about the ownership and possession of the claimant in respect of acquired land. His contention is that the notice U/Sec.4, 6, 9, 12 of the Land Acquisition Act were properly served on the claimant. His contention is that the reference is barred by limitation. His contention is that the compensation amount claimed by the claimant is exorbitant and not as per the market price of the acquired land. Hence, he has prayed for dismissal of the reference petition with costs.

6. Considering the rival pleading of the parties, following issues framed at Exh.10, and I have recorded my findings there on for the reasons given as under :-

ISSUES

FINDINGS

- | | |
|---|-------------------------|
| 1 Does claimant prove that the compensation awarded by the Land Acquisition Officer is inadequate and does not reflect the market price ? |In the negative |
| 2 Whether the reference petition is filed within the limitation ? |In the affirmative. |
| 3 Whether the claimant is entitled for enhancement in compensation ? If Yes, at what rate ? |In the negative. |
| 4 Whether the claimant is entitled for the relief as claimed ? | ...In the negative |
| 5 What order ? |As per final order. |

-REASONS-

7. As to Issue No.1, 3 and 4 :-

In spite of taking the sufficient time, the claimant has failed to adduce the evidence in support of the claim. Therefore, matter proceeded without the evidence of the claimant on merit. On the other hand, the respondent has also not filed any documentary evidence on record. Shri.M.S.Patil Advocate for the claimant called out absent. Heard Shri. M. M. Kadam, learned A.G.P for the respondent.

8. The claimant has claimed the compensation towards the standing crop, severance of land etc. But, as per judgment of the Hon'ble Supreme Court, in the case of State of Hariyana Vs. Gurucharansing reported in A.I.R.1996 page 106 that, “no separate enhancement in the compensation towards standing crops, tals, bunds, trees etc., can be granted, hence the question of granting of enhancement in compensation towards standing crop, well does not arise”.

9. Whether Land Acquisition Officer has awarded inadequate compensation or not ? It was duty for the claimant to prove it, but he has failed to adduce the evidence. As the claimant has not come before the Court to lead any evidence in support of his claim hence I am of the opinion that the compensation awarded by the Land Acquisition Officer is adequate and proper. It is awarded as per the market price. The petitioner has failed to prove that compensation awarded is inadequate and does not reflect the market price, therefore, he is not entitled for enhanced compensation. Hence, he is entitled for nothing. Therefore, I have answered issue No.1, 3

and No.4 in the negative.

10. As to issue no.2 :-

The respondent vide written statement has contended that the petition is not within the limitation. But, the reference letter submitted by the Office of the Land Acquisition Officer alongwith Exh.1, reveals that the reference petition has been filed on 18.07.2000. The claimant has specifically pleaded that he learnt for the first time about the award passed on 02.03.2000, when he received the notice U/Sec.12(2) of the Land Acquisition Act, which was served on him on 12.06.2000. Therefore, in view of Section 18(2) of the Land Acquisition Act, present reference has been filed within the limitation period. Hence, I have answered issue no.2 in the affirmative.

11. In the light of above reasons and negative findings on issue No.1, 2 and 4, the reference petition deserves to be dismissed. Hence I have passed the following order.

-ORDER-

1. Reference Petition is dismissed with costs.
2. Award be drawn up accordingly.

(Dictated and pronounced in open Court)

Sd/-

(G. B. Jadhav)
Civil Judge,(Sr. Division),
Paranda

Date :- 17.08.2012