

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8750 OF 2013

VITTHAL S/O NAMDEO PATIL

Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

O R D E R

By the impugned judgment, the High Court has partly allowed the appeal filed by the appellant and enhanced the compensation for the land from Rs.10,000/- to Rs. 15,000/- per acre. Thereafter, the High Court ordered as follows:

"9. The Reference Court has directed payment of interest at the rate of 9% p.a. on the enhanced amount of compensation together with solatium from the date of award i.e. 17.05.1984 till the deposit of amount on enhanced compensation, by the respondent/State in the Court. The Reference Court has not considered the provisions of Section 28 of the Land Acquisition Act in its proper perspective. The claimant shall be entitled to receive enhanced amount of interest as prescribed under Section 28 of the Act, so also benefits under Section 23(1A) of the Land Acquisition Act and the amount of solatium on the enhanced amount of compensation awarded in the first appeal."

It is feeling aggrieved by the same that the appellant is before us.

We have heard Shri Shirish K. Deshpande, learned counsel appearing on behalf of the appellant, and Shri Sachin Patil, learned counsel appearing on behalf of the

respondent-State.

Learned counsel for the appellant addressed three points before us. In the first place, he would point out that the High Court has erred in not granting compensation on the basis of the principle which would flow from the definition of the word 'land' in Section 3(a) of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act'). He would further seek to buttress his argument with reference to a judgment of this Court reported in *Shri Ambya Kalya Mhatre (D) Through Legal Heirs & Ors. v. State of Maharashtra* (2011) 9 SCC 325. Consequently, he would point out that the appellant has been denied the benefit of Section 34 of Act. Thirdly, he would complain that even as regards the market value, the High Court ought to have awarded a sum of Rs.20,000/- per acre. The appellant also puts across a claim based on the decision in *Gupreet Singh v. Union of India* 2006 (8) SCC 457.

*Per contra*, Shri Sachin Patil, learned counsel for the respondent-State, would submit that a part of the land (4 acres out of the 8 acres involved) was dry land and the High Court has balanced the interests and awarded a reasonable sum by enhancing the compensation from Rs.10,000/- per acre to Rs. 15,000/- per acre. He would submit that for dry land, the market value has been found by the High Court on the basis of findings, to be Rs.11,000 per acre. Taking note of facts, the High Court has increased the compensation and awarded the compensation taking the market value to be

Rs.15,000/- per acre. He would submit that there is no scope for any further enhancement. Secondly, as regards the case sought to be built up under section 3(a), viz., that the appellant should have been awarded separate compensation on the basis of the definition of the word 'land' in Section 3(a) and the interpretation placed on the same by the judgment of this Court in *Shri Ambya Kalya Mhatre (D) Through Legal Heirs & Ors.* (supra), he would point out that there is no evidence for such a claim. He would further point out that this issue is a pure question of fact. He would contend that this contention is conspicuous by its absence before the High Court. As far as section 34 of the Act is concerned, learned counsel does not dispute that the appellant cannot be denied the benefit under Section 34.

8 acres of land came to be acquired on the basis of a notification which is issued on 02.12.1982. The declaration in this case was published on 07.05.1983. The Award came to be passed on 17.05.1984. The appellant was awarded market value on the basis of the price of Rs.4705 per acre. In the reference filed by the appellant on 07.12.1984, the Reference Court enhanced the compensation to Rs.10,000/- per acre. As noted, in the appeal, by the appellant before the High Court, the compensation stands enhanced in the manner already described earlier.

As far as the contention that the appellant should be extended the benefit of the judgment of this Court in *Shri Ambya Kalya Mhatre (D) Through Legal Heirs & Ors.* (supra) in

connection with the definition of the word 'land' in Section 3(a), we are of the view that the learned counsel for the respondent is right in pointing out that this contention is essentially a mixed question of fact and law, if not a pure finding of fact as pointed out by the learned counsel for the respondent. There is no evidence, as such, which is marshalled by the appellant to support his contention. This contention is not seen reflected in the judgment which means that this contention was not taken before this Court. Without it being argued before the High Court, and not being a pure question of law, we are not inclined to permit the appellant to derive assistance from the judgment as such.

As regards the market value which has been fixed by the High Court as Rs.15,000/- per acre, we think that the High Court has undertaken a fairly elaborate exercise and after considering the conspectus of evidence produced, granted a 50 per cent enhancement from that which was granted by the Reference Court. We do not see any reason why this Court should extend any further increase in the market value.

In regard to benefit under Section 34, we would think that the appellant is justified in making the claim. He is entitled to the benefit of Section 34 of the Act. In such circumstances, we pass the following order:

The appeal is partly allowed.

We direct that the appellant will be entitled to the benefit of Section 34 of the Act. The appeal is disposed of as above.

Except in regard to the above matters, the impugned judgment of the High Court shall stand confirmed. The appeal is allowed as above.

Parties to bear their respective costs.

....., J.  
[ K.M. JOSEPH ]

....., J.  
[ HRISHIKESH ROY ]

New Delhi;  
February 01, 2022.

ITEM NO.103

Court 10 (Video Conferencing)

SECTION III

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 8750/2013

VITTHAL S/O NAMDEO PATIL

Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

Date : 01-02-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH  
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Appellant(s)

Mr. Shirish K. Deshpande, AOR  
Mr. Suhas Urgunde, Adv.  
Ms. Rucha Pravin Mandlik, Adv.

For Respondent(s)

Mr. Sachin Patil, AOR  
Mr. Rahul Chitnis, Adv.  
Mr. Aaditya A. Pande, Adv.  
Mr. Geo Joseph, Adv.  
Ms. Shwetal Shepal, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is allowed in terms of the signed order.

(NIDHI AHUJA)  
AR-cum-PS

(RENU KAPOOR)  
BRANCH OFFICER

[Signed order is placed on the file.]