

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4637 OF 2012

RAJENDRA

APPELLANT

VERSUS

STATE OF MAHARASHTRA & ANR.

RESPONDENTS

WITH

CIVIL APPEAL NO.4638 OF 2012

O R D E R

1. The appellant's land, in Civil Appeal No.4637/2012, measuring 1.21 hectare in Gat No.93/2, with 107 Orange Trees, 3 Mango Trees and one Karvand Tree situated at village Chincholi, District Yavatmal, was proposed to be acquired by State of Maharashtra by issuing a notification dated 06.03.1986 under Section 4 of the Land Acquisition Act, 1894 (for short "the Act"). This parcel of land was acquired for the purpose of operationalizing the Arunavati River Project. After the acquisition process was finalized, the Land Acquisition Officer awarded compensation to the appellant at the rate of Rs. 14,000/- per hectare.

2. In the connected appeal i.e. Civil Appeal No.4638/2012, the appellant's land measuring 4 hectares and 3.1 Arrs, also situated in Chincholi and possessing fruit trees, was similarly acquired. This land was also acquired

for the same purpose vide notification dated 06.02.1986. The Land Acquisition Officer awarded compensation to the appellants at the rate of Rs.12,500/- per hectare.

3. In both the cases, the appellants filed reference petitions under Section 18 of the Act and the Reference Court awarded them compensation at the rate of Rs.90,000/- per hectare and Rs.1,00,000/- per hectare, respectively. Separate compensation for the fruit trees standing on the appellant's land was also awarded.

4. Still dissatisfied, the appellant in C.A. No.4637 of 2012 filed a First Appeal before the High Court. The State of Maharashtra also filed a cross appeal. The High Court vide impugned judgment dated 15.07.2010 has dismissed the appellant's appeal and allowed the State's appeal in part. The net effect of this was that compensation was reduced from Rs.90,000/- per hectare to Rs.70,000/- per hectare, with a further direction that appellant was not entitled to separate compensation for the fruit trees. The High Court, while reducing the compensation, relied upon an earlier decision dated 26.08.2009 passed in First Appeal No.411/1994. It appears that in that appeal, the High Court had reduced compensation as awarded by the Reference Court in respect of the land of the same village i.e. Chincholi.

5. In C.A. No.4638/2012 as well, the State of Maharashtra challenged the award of compensation at the

rate of Rs.1,00,000/- per hectare besides objecting to the amount of separate compensation for fruit trees. The High Court vide judgment dated 16.11.2010, partly agreed with the contentions of the State and set aside the compensation granted for fruit bearing trees. This is how these two appeals by the aggrieved land owners have arisen for consideration before us.

6. We have heard learned counsel for the parties and perused the record.

7. With regard to the compensation claim in C.A. No.4637/2012, it is undeniable that the High Court has upheld the compensation of Rs.1,00,000/- per hectare in the connected case, where similarly, the land was situated in the village of Chincholi and was acquired for the same public purpose. The only difference is that in one case the notification under Section 4 of the Act was issued on 06.02.1986 whereas in the other case it was published on 06.03.1986. There is no significant difference between the two appeals in terms of facts. We are, thus, of the firm opinion that the appellant in C.A. No.4637/2012 is also entitled to same rate of compensation as has been awarded to the appellant in C.A. No.4638/2012, considering the identical nature, potentiality, and location of the land in both appeals.

8. Consequently, the appellant in C.A. No.4637/2012 is

held entitled to compensation at the rate of Rs.1,00,000/- per hectare for his acquired land measuring 1.21 hectare in Gut No.93/2 situated in village Chincholi, District Yavatmal.

9. We may now turn our attention to the common issue in both appeals, which is whether the appellants are entitled to additional compensation for the loss of fruit bearing trees. The High Court has set aside the award of the Reference Court to the extent of grant of compensation for fruit bearing trees after placing reliance on two decisions of this Court in (i) State of Haryana vs. Gurcharan Singh and Another - 1995 Supp.(2) SCC 637; (ii) Airports Authority of India vs. Satyagopal Roy and Others - reported in (2002) 3 SCC 527.

10. On the other hand, learned counsel for the appellants rely upon the decisions of this Court in (i) Navanath and Others vs. State of Maharashtra - (2009) 14 SCC 480 and (ii) Bilquis vs. State of Maharashtra and Others - (2018) 7 SCC 530. These decisions, according to the appellants, support their contention that the market value of the land was determined correctly by the Reference Court while keeping in mind various factors, especially the location of the land, its potentiality, proximity to the old State highway, as well as the fact that it is fertile land with fruit bearing trees with significant possibility of further cultivation and agricultural utilization. It is, therefore,

argued that the compensation for loss of fruit bearing trees is independent of the market value of the acquired land.

11. We have considered the rival submissions. It appears to us that when the market value of the land is determined after taking into account factors like its location, potentiality, utility for usage in multiple purposes etc., such assessment will not be impacted by factors like the annual yield of the fruit bearing trees.

12. In this case also, the Reference Court has taken notice of the fruit bearing trees on the land, but while fixing the market value of Rs. 1,00,000/- per hectare, the Court primarily relied upon the location of the land which is abutting the old State highway and has more value than ordinary irrigated land.

13. Keeping this distinction in view, it will not amount to multiplicity or overlapping of the compensation if the appellants are separately compensated for the loss of fruit bearing trees. The High Court, thus, misconstrued the decisions of this Court cited in paragraph 5 of the impugned judgment.

14. For these reasons, we allow these appeals in part to the extent that the appellants in both cases are held entitled to compensation for the land at the rate of Rs. 1,00,000/- per hectare along with all other statutory

benefits and in addition, they shall also be entitled to compensation for the loss of fruit bearing trees as has been assessed and awarded by the Reference Court. Ordered accordingly.

15. The due amount of compensation shall be paid to the appellants within eight weeks.

.....J.
(SURYA KANT)

.....J.
(DIPANKAR DATTA)

New Delhi;
July 13, 2023

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).4637/2012

RAJENDRA

Appellant(s)

VERSUS

STATE OF MAHARASHTRA & ANR.

Respondent(s)

WITH

C.A. No. 4638/2012 (IX)

Date : 13-07-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE DIPANKAR DATTA

For Appellant(s) Mr. Amol Nirmalkumar Suryawanshi, AOR

Mr. Kishor Lambat, Adv.
Ms. Kashmiri Lambat, Adv.
Suja Joshi, Adv.
Mr. Rabin Majumder, AORFor Respondent(s) Mr. Aaditya Aniruddha Pande, AOR
Mr. Siddharth Dharmachikari, Adv.
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.

Mr. Nishant Ramakantrao Katneshwarkar, AOR

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

The appeals are allowed in part in terms of the signed order.

Pending application(s), if any, stands disposed of.

(ARJUN BISHT)
COURT MASTER (SH)(PREETHI T.C.)
COURT MASTER (NSH)

(signed order is placed on the file)