

NAMDEO SHANKAR GOVERDHANE (D) THR. LRS. & ORS. A
ETC. ETC.

v.

STATE OF MAHARASHTRA & ORS.
(Civil Appeal Nos. 10217-10250 Of 2011 etc.)

JULY 17, 2019 B

[ABHAY MANOHAR SAPRE AND INDU MALHOTRA, JJ.]

Land Acquisition Act, 1894:

s. 11 – Acquisition of land – Compensation – Determination of, after classifying the land into three categories viz. ‘Jirayat’, ‘Bhagayat’ and ‘Pot Kharab’ lands – Rate of compensation enhanced by civil court in reference u/s. 18 – In appeal by State, High Court reduced the compensation as regards ‘Jirayat’ and ‘Bhagayat’ lands while enhancing the compensation as regards ‘Pot Kharab’ land – Appeal to Supreme Court by some of the landowners challenging the order whereby compensation rate was reduced – Held: High Court rightly appreciated the evidence i.e. three sale deeds filed by the State and three sale deeds filed by the landowners for determining the market value – The marginal reduction of rates in two types of land cannot be faulted with. C D E

Dismissing the appeals, the Court

HELD : 1. The High Court rightly appreciated the evidence and especially the 3 sale deeds filed by the State and 3 sale deeds filed by the landowners for determining the market value of the acquired land. [Para 21] [1111-F] F

2. It is not correct to say that since the land in question was an agricultural land and, therefore, price of small piece of land can be taken into consideration for determining the large chunk of land. [Para 28] [1113-B]

3. The relevant sale deed to determine the market value of the suit land is (EX- 141). It is very near to the date of acquisition (03.03.1994); and it is for a larger chunk of land. If reliance is placed only upon Ex-141, then perhaps the determination made by the High Court in relation to two kinds of land can still be reduced. Since the State has not filed any appeal against the order G H

A of the High Court and on the other hand has accepted the
 determination made by the High Court, the question of reducing
 the rate determined by the High Court need not be examined. It
 is not legally permissible. Exclusive reliance cannot be placed
 on Ex-P-42 as was urged by the appellants neither for restoring
 the rates determined by the Civil Court and nor for making any
 B further enhancement in the rates determined by the High Court.
 Ex-P-42 is of the year 1989 and that too of a very small piece of
 land. [Paras 24, 25, 26 and 27] [1112-D-H]

4. The High Court, therefore, rightly took into
 consideration all the six sale deeds and then on appreciation of
 C entire evidence rightly came to a conclusion that the rates
 determined by the Civil Court in relation to '*Jirayat*' and '*Bagayat*'
 lands appeared to be on higher side and hence need to be reduced.
 The marginal reduction of the rates in two types of land, which is
 based on cogent reasoning of the High Court, cannot, therefore,
 D be faulted with. [Para 29] [1113-C-D]

CIVIL APPELLATE JURISDICTION Civil Appeal Nos. 10217-
 10250 of 2011.

From the Judgment and Order dated 11.10.2007 of the High Court
 of Judicature at Bombay in First Appeal Nos. 2673, 2678-2695, 2697-
 E 2708 and 2710-2712 of 2006.

With

Civil Appeal Nos. 10305-10308, 10309 of 2011.

Vinay Navare, Sr. Adv. Ms. Gwen Kartika, Ms. Abha R.Sharma,
 F Shivaji M. Jadhav, Advs. for the Appellants.

Sudhanshu S. Choudhari, Yogesh S.Kolte, Ms. Surabhi Guleria,
 Mahesh P. Shinde, Ms. Deepa M.Kulkarni, Nishant Ramakantrao
 Katneshwarkar, Advs. for the Respondents.

G The Judgment of the Court was delivered by
ABHAY MANOHAR SAPRE, J.

1. These appeals are directed against the final judgment and orders
 passed by the High Court of Judicature at Bombay dated 11.10.2007 in
 First Appeal Nos.2673, 2678-2695, 2697-2708, 2710-2712 and 2674-2677
 H of 2006 and order dated 23.08.2007 in First Appeal No.1241 of 2007.

2. A few facts need mention hereinbelow for the disposal of these appeals, which involve a short question. A

3. The appellants are the landowners (claimants) whereas the respondents are the State of Maharashtra and its authorities in the proceedings before the Trial Court out of which these appeals arise.

4. In exercise of powers under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”), the State of Maharashtra issued a notification on 03.03.1994 for acquiring land measuring 26,554.39 hectares situated in village Sanjegaon, Taluka Igatpuri District Nasik (MH). The purpose of acquisition of the land in question was construction of Mukane Dam. This was followed by issuance of declaration under Section 6 of the Act on 17.06.1994. The appellants’ land in question was also acquired in the acquisition proceedings. B C

5. This led to initiation of proceedings by the Land Acquisition Officer (LAO) under Section 11 of the Act for determination of compensation payable to the appellants along with other landowners whose lands were also acquired in the acquisition proceedings. D

6. By award dated 14.07.1995, the LAO offered compensation to the landowners by classifying the land in three categories, namely, Jirayat land, Bagayat Land and Pot Kharab land at the rates mentioned below:

Jirayat land	Rs.40,000/- to Rs.1,11,000/- per hectare	E
Bagayat land	1.5 times the rate of Jirayat land	
Pot Kharab land	Rs.200/- per hectare	

7. The landowners (appellants herein) felt aggrieved by the award made by the LAO and accordingly sought reference under Section 18 of the Act to the Civil Court. By award dated 24.03.2006, the Civil Court partly enhanced the rate of compensation in appellants’ favour as under: F

Jirayat land	Rs.1,69,231/- per hectare	
Bagayat land	Rs. 2,11,539/- per hectare	G
Pot Kharab land	Rs. 84,616/- per hectare	

8. The State felt aggrieved by the award of the Civil Court and filed appeals under Section 54 of the Act before the Bombay High Court. So far as the landowners are concerned, they did not file any cross objection to claim further enhancement in the rate of compensation H

A determined by the Civil Court except complaining of wrongly making the classification of their land by the Civil Court.

9. So, the question before the High Court was whether the Civil Court was justified in partly enhancing the rate of compensation mentioned above. The case of the State in their appeals was that the Civil Court
B was not justified in enhancing the rate of compensation and whatever the Reference Court had determined, the same should be upheld as being just and reasonable compensation awarded to the landowners (appellants herein).

10. By impugned order, the Division Bench of the High Court
C partly allowed the State's appeals and accordingly reduced the rate of compensation. The rate of compensation awarded by all the Courts are as under:

	For Jirayat Land	For Bagayat Land	For Pot Kharab Land
D Land Acquisition Officer	From Rs.40,000/- to Rs.1,11,000/- per hectare	1.5 times the rate of Jirayat land per hectare	Rs.200/- per hectare
Reference Court	@ Rs.1,69,231/- per hectare	@ Rs.2,11,539/- per hectare	@ Rs.84,616/- per hectare
High Court	@ Rs.1,26,924/- per hectare	@ Rs.1,58,655/- per hectare	@ Rs.1,07,886/- per hectare

11. Some landowners (appellants herein) felt aggrieved by the order of the High Court and have filed these appeals by way of special
E leave in this Court.

12. So, the question, which arises for consideration in these appeals, is whether the High Court was justified in partly allowing the State's appeals and thereby was justified in reducing the rate of compensation as against what was determined by the Civil Court.
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13. Heard learned counsel for the parties.

14. Learned counsel for the appellants (landowners) has essentially confined his submission to the rate determined by the High Court in relation to Jirayat land and Bagayat land. In other words, the appellants
G are aggrieved only by the rates of Jirayat and Bagayat lands.

15. According to the learned counsel, the rates determined by the Civil Court (Reference Court) in relation to Jirayat and Bagayat lands were just and proper, therefore, it should not have been interfered with by the High Court. It was his submission that keeping in view the exemplars relied on by the landowners and, particularly (Ex-P-42), the
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rate mentioned therein should have been applied for determining the market value of the acquired land. A

16. It was urged that the principle that price of small piece of land cannot be applied for determining the price of large chunk of acquired land may be good in relation to those cases where the acquired land is non-agricultural and is situated in urban areas but where the land is an agricultural land such as the one in the present case, the rate of small piece of land can be taken into consideration while determining the large chunk of land. B

17. It was pointed out that since the land in question was an agricultural land, the market value of the acquired land could be determined keeping in view the price of the land purchased under exemplar (Ex-P-42) even though it was for a small piece of land. C

18. In reply, learned counsel for the respondent (State) supported the well reasoned order of the High Court and prayed for dismissal of these appeals. D

19. Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in these appeals.

20. In our view, the reasoning and the conclusion arrived at by the High Court, which resulted in partly allowing the State's appeals and thereby reducing the rate of compensation to some extent is just and proper and hence does not call for any interference. This we say for the following reasons. E

21. We find that the High Court rightly appreciated the evidence and especially the 3 sale deeds filed by the State and 3 sale deeds filed by the landowners for determining the market value of the acquired land. It is apposite to set out the details of the six sale deeds hereinbelow: F

Three sale deeds produced by the State

Date of Sale deed	Exh.	Village	Area	Rate per hectare
28.02.1992	140	Sanjegaon Gat No.777 Paddy/grass land	0.45 Ares	Rs.40,000/-
14.02.1994	141	Sanjegaon Gat No.941	1.50 Hectare	Rs.32,666/-
17.07.1991	142	Sanjegaon Gat No.971/1 Jirayat land	85 Ares	Rs.15,882/-

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A **Three sale deeds produced by the landowners**

Date of Sale deed	Exh.	Village	Area	Rate per hectare
04.07.1989	42	Sanjegaon Gat No.810 Jirayat land	13 Ares	Rs.1,15,385/-
30.05.1990	124	Sanjegaon Gat No.516 Jirayat Land	4.8 Ares	Rs.1,35,417/-
31.01.1995	129	Mulkane Gat No.447 A	60 Ares	Rs.2,12,500/-

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22. Learned counsel for the appellants, in his submissions, placed heavy reliance on the sale deed (EX- 42) dated 04.07.1989 and contended that the market value of the suit land should have been determined keeping in view the price of the land mentioned in this sale deed.

23. On the other hand, learned counsel for the respondent (State) placed reliance on the sale deed dated 14.02.1994 (EX-141) and contended that if the price mentioned in this sale deed is relied on then it is amply clear that the High Court has awarded the compensation on higher side and, therefore, it deserves to be rather reduced.

24. In our opinion, the relevant sale deed to determine the market value of the suit land is (EX- 141), which is dated 14.02.1994. This we say for two reasons. First, it is very near to the date of acquisition (03.03.1994); and Second, it is for a larger chunk of land. As a matter of fact, if we only rely upon Ex-141 then perhaps the determination made by the High Court in relation to two kinds of land can still be reduced.

25. Since the State has not filed any appeal against the order of the High Court and on the other hand has accepted the determination made by the High Court, we need not examine the question of reducing the rate determined by the High Court in these appeals. It is not legally permissible.

26. Having examined the issue, we cannot place exclusive reliance on Ex-P-42 as was urged by the learned counsel for the appellants neither for restoring the rates determined by the Civil Court and nor for making any further enhancement in the rates determined by the High Court.

27. As a matter of fact, we find that Ex-P-42 is of the year 1989 and that too of a very small piece of land. It would not, therefore, be safe to place exclusive reliance on this sale deed. It is more so when we find that Ex-141 relied on by the learned counsel for the respondent

(State) was executed just one month prior to the date of acquisition and is also of a large chunk of land situated in the same village. A

28. We are also not impressed by the submission of learned counsel when he contended that since the land in question is an agricultural land and, therefore, price of small piece of land can be taken into consideration for determining the large chunk of land. We cannot accept this submission B in the light of what we have held above on facts.

29. In our opinion, the High Court, therefore, rightly took into consideration all the six sale deeds and then on appreciation of entire evidence rightly came to a conclusion that the rates determined by the Civil Court in relation to Jirayat and Bagayat lands appeared to be on higher side and hence need to be reduced. Accordingly, the rate of Jirayat C land was reduced from Rs.1,69,231/- per hectare to Rs. 1,26,924/- per hectare and the rate of Bagayat land was reduced from Rs.2,11,539/- per hectare to Rs.1,58,655/- per hectare by the High Court. The marginal reduction of the rates in two types of land, which is based on cogent reasoning of the High Court, cannot, therefore, be faulted with. D

30. In view of the foregoing discussion, we find no merit in these appeals. The appeals are accordingly dismissed.