IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

FIRST APPEAL NO. 1045 OF 2006

1. Dnyanoba S/o Sambhaji Shelke,
   Age: 50 years, Occ: Agri.,

2. Machindra S/o Sambhaji Shelke
   Age: 55 years, Occ: Agri.,

3. Maruti S/o Sambhaji Shelke
   Age: 60 years, Occ: Agri.

4. Narayan S/o Sambhaji Shelke
   Age: 45 years, Occ: Agri.

5. Lingram S/o Sambhaji Shelke
   Age: 60 years, Occ: Agri.

All R/o Sangvi, Tq. Ahmedpur,
Dist. Latur. **… Appellants**

Versus

1. The State of Maharashtra
   Through Collector, Latur,
   Dist. Latur.

2. The Executive Engineer,
   Medium Project Division,
   Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1044 OF 2006

Sambhaji S/o Lingram Shelke
Died through L.Rs

1. Dnyanoba S/o Sambhaji Shelke
   Age: 45 years, Occ: Agri.,

2. Machindra S/o Sambhaji Shelke
   Age: 40 years, Occ: Agri

3. Maruti S/o Sambhaji Shelke
Age: 42 years, Occ: Agri.,

4. Narayan S/o Sambhaji Shelke
Age: 45 years, Occ: Agri.,

5. Lingram S/o Sambhaji Shelke
Age: 40 years, Occ: Agri.,

All R/o Sangvi, Tq. Ahmedpur,
Dist. Latur. **… Appellants**

Versus

1. The State of Maharashtra
Through Collector, Latur,
Dist. Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1048 OF 2006

Maruti S/o Sambhaji Shelke
Age: 40 years, Occ: Agri.,
R/o Sangvi, Tq. Ahmedpur,
Dist. Latur. **… Appellant**

Versus

1. The State of Maharashtra
Through Collector, Latur,
Dist. Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1042 OF 2006

Vishwasagar S/o Machindra Shelke
Age: 40 years, Occ: Agri.,
R/o Sangvi, Tq. Ahmedpur,
Dist. Latur. **… Appellant**

Versus

1. The State of Maharashtra
Through Collector, Latur,
Dist. Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1047 OF 2006

Lingram S/o Sambhaji Shelke
Age: 45 years, Occ: Agri.,
R/o Sangvi, Tq. Ahmedpur,
Dist. Latur. **… Appellant**

Versus

1. The State of Maharashtra
Through Collector, Latur,
Dist. Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1043 OF 2006

Manoj S/o Maruti Shelke
Age: 40 years, Occ: Agri.,
R/o Sangvi, Tq. Ahmedpur,
Dist. Latur. **… Appellant**

Versus

1. The State of Maharashtra
Through Collector, Latur,
Dist. Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1046 OF 2006

1. Balaji S/o Dnyanoba Shelke
Age: 50 years, Occ: Agri.,
R/o Sangvi, Tq. Ahmedpur,
Dist. Latur.

2. Shivaji S/o Dnyanoba Shelke
Age: 52 years, Occ: Agri.,
R/o Sangvi, Tq. Ahmedpur,
Dist. Latur. **… Appellants**

Versus

1. The State of Maharashtra
Through Collector, Latur,
Dist. Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1375 OF 2008

1. Dnyanoba s/o Gangaram Surnar
Age: 35 Occ: Agriculture

2. Ramkishan s/o Dnyonaba Surnar
Age: 40 Occ: Agri.

3. Keshav S/o Dnyonaba Surnar

Age: 45 Occ: Agriculture

All R/o Sangavi Tq. Ahmedpur
Dis- Latur **… Appellants**

Versus

1. The State of Maharashtra
Through the Collector, Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1376 OF 2008

Suresh s/o Ramrao Awale
Age: 55 Occ: Agriculture
R/o Sangavi Tq. Ahmedpur
Dis- Latur. **… Appellant**

Versus

1. The State of Maharashtra
Through the Collector, Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 2485 OF 2008

Dnynoba s/o Gangaram Surnar
Age: 50 years, Occ: Agriculture
R/o Sangavi Tq. Ahmedpur
Dis- Latur. **… Appellant**

Versus

1. The State of Maharashtra
Through the Collector, Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1379 OF 2008

Hullapa s/o Babarao @ Bapurao Boinar
Age: 45 years, Occ: Agriculture
R/o Sangavi Tq. Ahmedpur
Dis- Latur. **… Appellant**

Versus

1. The State of Maharashtra
Through the Collector, Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1378 OF 2008

1. Pandurang s/o Masna @ Masnaji Surnar
Age: 50 years, Occ: Agriculture

2. Venkat s/o Masna @ Masnaji Surnar
Age: 55 years, Occ: Agri.

3. Ankush s/o Masna @ Masnaji Surnar
Age: 45 years, Occ: Agri.

4. Sanjay S/o Masna @ Masnaji Surnar
Age: 40 years, Occ: Agriculture

All R/o Sangavi Tq. Ahmedpur
Dis- Latur. **… Appellants**

Versus

1. The State of Maharashtra
Through the Collector, Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

WITH

FIRST APPEAL NO. 1377 OF 2008

Ram Narsanna Awale
(Died) Through LRs

1. Suresh Ramrao Awale
Age: 50 years, Occ: Agri

2. Jagganath Ramrao Awale
Age: 48 years, Occ: Agri

3. Sunanda Dnyanoba Kalame
Age: 53 years, Occ: Agri

4. Usha Sambhaji Kasale
Age 46 years, Occ: Agri

All R/o: Sangavi (s) Tal: Ahmedpur,
Dist: Latur. **… Appellants**

Versus

1. The State of Maharashtra
Through the Collector, Latur.

2. The Executive Engineer,
Medium Project Division,
Nanded, Dist. Nanded. **… Respondents**

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Mr. A. B. Kale, Advocate for Appellants / Claimants.
Mr. Virendra V. Jahagirdar, AGP for Respondent No.1 / State.
Mr. S. G. Sangle, Advocate for Respondent No.2 / acquiring body.

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CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 24th December, 2025.

J U D G M E N T:

1 Heard the learned Advocates for the parties.

2 All these first appeals are preferred by the appellants / claimants against the common judgment and award dated 26th June, 2006, passed by the learned Reference Court, Ahmedpur, District Latur, in Land Acquisition References, as per the following chart:-

Sr. No.	Appeal No.	LAR No.	House Property No.
1	First Appeal No.1045 of 2006	LAR No.676 of 2002	76, 76/1, 76/2
2	First Appeal No.1044 of 2006	LAR No.830 of 2002	85, 85/1, 85/2, 85/3
3	First Appeal No.1048 of 2006	LAR No.673 of 2002	173
4	First Appeal No.1042 of 2006	LAR No.666 of 2002	175
5	First Appeal No.1047 of 2006	LAR No.677 of 2002	174
6	First Appeal No.1043 of 2006	LAR No.670 of 2002	176
7	First Appeal No.1046 of 2006	LAR No.674 of 2002	172
8	First Appeal No.1375 of 2008	LAR No.669 of 2002	107, 107/1, 107
9	First Appeal No.1376 of 2008	LAR No.702 of 2002	17
10	First Appeal No.2485 of 2008	LAR No.672 of 2002	107
11	First Appeal No.1379 of 2008	LAR No.675 of 2002	94
12	First Appeal No.1378 of 2008	LAR No.671 of 2002	108
13	First Appeal No.1377 of 2008	LAR No.678 of 2002	80

3 The claimants' houses and open plots of village Sangavi Sunegaon, Tahsil Ahmedpur, District Latur were acquired as per the notification dated 9th February, 1999 under Section 4 of the Land

Acquisition Act, 1894 (for short “the L.A. Act”), in the year 1997, for the purpose of submergence of Urdhav Manyar Project of village Sangavi Sunegaon, Tahsil Ahmedpur, District Latur.

4 The learned Advocate for the appellants / claimants pointed out the pleadings, evidence and the impugned judgment. It is contended by the claimants that their acquired houses were constructed 15 to 20 years prior to the acquisition process and those were built up with cement concrete, stone, bricks, etc. The lives of their houses were more than 15 to 50 years. There were a school, public health center, water supply, electricity supply etc. in the village Sangavi Sunegaon.

5 The learned Advocate for the claimants further submitted that the sale exemplars at Exhibits – 44 and 45 were disbelieved by the learned Reference Court without giving legal and acceptable reasons. The evidence of Nandkumar Pokalwar (PW-2), the valuer, was disbelieved on the ground that he visited the acquired properties after possession had been taken and no notice was sent to the acquiring body to remain present while valuation of the acquiring properties was being carried out and that his valuation reports were belatedly filed in the Court during the hearing of land

reference proceedings. His evidence was mechanically evaluated and not relied upon.

6 The learned Advocate for the claimants further submitted that the valuation reports at Exhibits – 47 to 64 and the comparable sale exemplars at Exhibits – 44 and 45 were proved, therefore, compensation for surface land under construction and the open plot would have been determined as per the sale exemplars and awarded to the claimants by the learned Reference Court. The sale exemplars were admittedly executed prior to the notification under Section 4 of the L.A. Act dated 6th November, 1996 as per market value. He submitted to allow the appeals by setting aside the impugned judgment and award.

7 The learned counsel for the claimants relied upon the following authorities:-

i) ***Special Deputy Collector and another Vs. Kurra Sambsiva Rao and others***, **(1997) 6 Supreme Court Cases 41**, in which it is held that some guesswork is permissible, but mechanical assessment of evidence should be avoided.

ii) ***Bajesing Dalpatsing Girase Vs. The State of Maharashtra and others*** (First Appeal No.2525

of 2022) dated 12th July, 2023, in which rate of 85% of valuation report was accepted.

8 The learned Advocate for respondent No.2 / acquiring body strongly opposed the appeals and submitted that by drawing the market value of acquired lands, reasonable compensation has been awarded by the Land Acquisition Officer (for short "LAO"). The LAO has held that village Sangavi-Sunegaon is 13 kilometers away from Ahmedpur and has a population of only 521. The learned Reference Court enhanced compensation from 40% to 80% of award of LAO. The valuer's reports at Exhibits – 46 to 64 and oral evidence of the valuer Nandkumar Pokalwar (PW-2), was rightly not relied upon, as he took eight years to draw up the final valuation report and submitted it in Court during oral evidence of claimant (AW-1)

9 The learned Advocate for respondent No.2 further submitted that the sale exemplars at Exhibits – 44 and 45 are between the claimants brothers and other persons. Therefore, they appear to be sham and collusive transactions and executed to jack up the prices of the acquired properties in order to show the higher market value, which shows that real brothers had purchased those properties on 6th November, 1996. Moreover, claimant Maruti

Shelke falsely deposed that Dnyanoba Shelke is not his brother, who is the purchaser of sale exemplar Exhibit – 44. However, they were purchasers of the properties in sale exemplars Exhibits – 44 and 45 who are joint claimants. Small pieces of the properties as per sale exemplars at Exhibits – 44 and 45 are not comparable and cannot be accepted as the evidence of the market value of the acquired properties on the date of notification under Section 4 of the L.A. Act. The sale exemplars are therefore, rightly disbelieved by the learned Reference Court.

10 The learned Advocate for respondent No.2 relied upon case of ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona And Another, (1988) 3 Supreme Court Cases 751***, in which it is held that some deduction is to be made for roads, open space and for plotting. He submitted to dismiss the appeals, as there is no substance in its grounds of objections.

11 The learned AGP for respondent No.1 also strongly opposed the appeals and submitted that the evidence is rightly appreciated by the learned Reference Court and there is no scope for interference. He submitted to dismiss the appeals.

12 Perused the record and proceedings, particularly, the pleadings, evidence and the impugned judgment and award.

13 As per Section 51-A of the Land Acquisition Act, 1894, certified copy of sale exemplars are made admissible. Further, formal proof of its contents is dispensed with under Section 59 of the Indian Evidence Act, 1872, now Section 54 of the Bharatiya Sakshya Adhiniyam, 2023. In these matters, execution of sale-deeds is not disputed. Therefore, it is not necessary to prove signature and handwriting of it i.e. essentials of Section 67 of the Indian Evidence Act, 1872, now Section 65 of the Bharatiya Sakshya Adhiniyam, 2023. Thus, formal proof of Exhibits – 44 and 45 sale-deed is dispensed with.

14 During cross-examination with regard to the sale exemplars Exhibits – 44 and 45, the claimant Maruti Shelke (AW-1) denied that another claimant Dnyanoba Shelke is his brother and therefore, for convenience of both they have purchased those adjacent plots at a higher rate. The learned Reference Court held that the sale exemplars Exhibits – 44 and 45 are fraudulently created in order to wrongfully gaining the compensation at a higher rate on that count. In paragraph No.13 of the impugned judgment,

the learned Reference Court held that the sale exemplars at Exhibits – 44 and 45 are of a higher rate. These two sale exemplars are executed on same day i.e. on 6th November, 1996. The notice under Section 4 of the L.A. Act was issued on 9th February, 1999, and more than two years thereafter sale exemplar Exhibit – 44 was executed. Those plots were purchased in the year 1996 and the acquisition process started in the year 1998. Therefore, the said sale exemplars were of two years earlier and therefore, cannot be disbelieved holding that it were created for jack up prices of the acquired properties by the claimants. Thus, the sale exemplars are bona-fide.

15 As per the law laid down by the Honourable Supreme Court in the case of ***Special Tehsildar Land Acqusition, Vishakapatnam Vs. A. Mangal Gowri (Smt), (1991) 4 SCC 218***, in which it is held that, sale exemplar of which claimant is purchaser can be accepted as evidence of market price of acquired land if its bona-fide transaction is proved. The learned Reference Court erred in disbelieving the *bona-fide* sale exemplars Exhibits – 44 and 45, as the claimants are parties to it. In this case, Exhibits – 44 and 45 are found bona-fide as those were two years prior of acquisition process.

16 The claimants' lands and houses are also of small size like those plots in the said sale exemplars. It is well settled that the highest sale exemplar is to be relied upon. Highest sale exemplar is Exhibit – 44. It was non-agricultural land, which required 30% land for development i.e. road, gutter etc. In this regard, the Honourable Supreme Court in the case of ***Special Land Acquisition Officer and another Vs. M.K. Rafiq Saheb, (2011) 7 Supreme Court Cases 714,*** held in paragraph No.20 as under:-

> "20. ....
>
> 6. ...
>
> 7. It cannot, however, be laid down as an absolute proposition that the rates fixed for the small plots cannot be the basis for fixation of the rate. For example, where there is no other material, it may in appropriate cases be open to the adjudicating court to make comparison of the prices paid for small plots of land. However, in such cases necessary deductions/adjustments have to be made while determining the prices."

17 It is not necessary to deduct 1/3rd amount as the claimants' properties are also of small size. Therefore, law laid down in case of ***Chimanlal Hargovinddas*** (supra) is not helpful to the respondents as the facts are different that claimants' properties are of small size and not big chunk of land. The claimants are

entitled to compensation for their open plots and the ground surface under construction of the houses as per sale exemplar Exhibit – 44.

18 As held above, the sale exemplar Exhibit – 44 deserves to be accepted as market price of the open plot and the surface area under construction on the date of notification under Section 4 of the L.A. Act. As per sale exemplar Exhibit – 44, N.A. plot of 2000 square feet was sold for Rs.2,80,000/- i.e. Rs.140/- per square foot. It is a sale-deed of 1996. The notification under Section 4 of the L.A. Act was issued on 9th February, 1999. Thus, for two years the claimants are entitled for 10% escalation i.e. Rs.14/- per year and Rs.28/- for two years, which if added with Rs.140/-, it becomes Rs.168/- per square foot, which deserves to be multiplied by the area of open plots and the surface area under constructed houses of the claimants, which is shown in the chart in final/operative order of this judgment and the amount of compensation is awarded accordingly, which was proper market price of acquired properties of the claimants at the time of notification under Section 4 of the L.A. Act.

19 The claimants have adduced the evidence of an expert valuer, Nandkumar Pokalwar (PW-2) to prove the value of houses of

the claimants. His expertise is not denied by the respondents. He deposed that on the request of the claimants, he visited those acquired properties. He drawn up valuation reports as per the fact situation and the D.S.R. Rules, 1998. He visited the said properties, observed it and noted the fact situation with regard to the area of open plots and houses and drew rough sketch map of each properties. After 15 to 20 days, he gave final valuation reports to the claimants. He proved the valuation reports of the claimants' houses and open plots at Exhibits – 47 to 64. In his cross-examination, he admitted that prior notice was not sent to the Land Acquisition Officer and the Executive Engineer, Medium Project, Division Nanded while visiting the said properties. He denied that as per the oral request of the claimants and by favouring them, he had valued and calculated the amount of compensation of their properties, which is false.

20 In paragraph No.11 of the impugned judgment, the evidence of valuer's reports are discussed by the learned Reference Court. It is held that the valuer's reports were not filed at the time of submitting with the applications for forwarding references and it was produced in LAR proceedings in the year 2006 while recording oral evidence of the claimant Maruti Shelke, nearly 8 years after filing of

the said land acquisition reference. The belated production of valuation reports at Exhibits – 47 to 64, are held doubtful.

21 As per the Land Acquisition Act, 1894, the claimant is only required to submit a claim petition, and thereafter, the Land Acquisition Officer is required to send a reference to the Civil Court for adjudication. It is not mandatory on the claimant to submit the entire evidence alongwith the claim petition like civil suit as per the provisions of the Civil Procedure Code, 1908. Therefore, said reason is not legal and correct.

22 The law is settled that it is not necessary to issue notice to other side at the time of drawing of the valuation in such cases. They may also value the acquired properties to disprove it. That is not done by the respondents.

23 It is a fact that valuer expert is remunerated witness paid by the claimants. Therefore, his evidence must be scrutinized carefully. On perusal of the valuation reports, it reveals that the valuer had given details under different heads with their values. He had noted the fact situation of the acquired properties particularly, the nature of the construction, the materials used for construction, the kinds of roofs. The depreciation of houses was considered and

thereafter, he came to the conclusion as to the market prices of the houses and open plots of the claimants. Before concluding he had given his declaration that he has no relation with the persons whose properties are valued. His evidence is not shaken in cross-examination and merely because the said reports were belatedly produced before the Reference Court, it cannot be doubtful and jettisoned. In many cases, LAO has sent the letter/proposal to the Government authorities like Civil Engineer like PWD etc. to value the acquired houses and open plots while drawing award. To disprove the valuer's reports, the respondents have not adduced any evidence, except his cross-examination, in which nothing was elicited to disbelieve him. The award of LAO cannot be relied upon unless proved by respondent No.2 / acquiring body by adducing evidence. However, the learned Reference Court relied upon it. In the case of ***Chimanlal Hargovinddas*** (supra), the Honourable Supreme Court held that the Reference Court cannot take into account the material relied upon by the Special Land Acquisition Officer (LAO) unless proved before the Court. Therefore, the arguments of the learned Advocate for the respondents that the evidence of the valuer is not reliable, is not acceptable. Merely because there is delay caused for production of valuation reports, it cannot be disbelieved. The strict proof is not required in such civil

cases. The delayed production of valuer's reports is not a reason to disbelieve it. It is because the claimants are villagers having no knowledge of law and procedure, justice cannot be denied to them. It depends upon the advise given to them by their advocates, who are mostly practicing in rural area.

24 As discussed above, the valuation reports are proved. However, considering the possibility of human error of judgment, 40% of the amount out of the value of the properties should be deducted for human error of judgment. Accordingly, the claimants are entitled for 60% of the amount out of the value suggested in the valuer’s report, as per the chart shown in operative part of this judgment.

25 The learned Reference Court categorized the acquired properties into A, B and C categories, but without giving convincing reasons as held above, as to how and why those properties are categorized. The reasons and findings of the learned Reference Court are not legal and correct that the sale exemplars and valuation reports are not comparable and not reliable. Therefore, interference is warranted in the impugned judgment and award. The appeals therefore, deserve to be allowed. The impugned judgment

and award deserves to be partly set aside. Hence, the following order:-

O R D E R

I. The appeals are partly allowed.

II. The impugned judgment and award are partly set aside and modified as under:-

a) The appellants / claimants are entitled for compensation for their houses and surface area under it and also for open plots including earlier amount of compensation awarded and received, as per the following chart:

Sr	F.A. No.	LAR No.	House No.	Constructed area sq. ft	Value of houses as per valuation report	60% value of valuer's report of constructed area	Open Plot area and ground surface under constructed area total	value for as per Rs.168/- sq. ft.
1	1045 of 2006	676 of 2002	76, 76/1, 76/2	1010.40	3,46,000	2,07,600	**Build + Open area = Total** 1010.40 + 476 = 1486	2,49,715
2	1044 of 2006	830 of 2002	85, 85/1, 85/2, 85/3	2748	9,83,000	5,89,800	2748 + 950 = 3698	6,21,264
3	1048 of 2006	673 of 2002	173	No construction	00	1,39,500	00 + 2325 = 2325	3,90,600
4	1042 of 2006	666 of 2002	175	No construction	00	1,41,300	00 + 2325 = 2325	3,90,600
5	1047 of 2006	677 of 2002	174	820	2,10,538	1,26,322	820 + 0 = 820	1,37,760

Sr	F.A. No.	LAR No.	House No.	Constructed area sq. ft	Value of houses as per valuation report	60% value of valuer's report of constructed area	Open Plot area and ground surface under constructed area total	value for as per Rs.168/- sq. ft.
6	1043 of 2006	670 of 2002	176	No construction	00	1,39,500	00 + 2325 = 2325	3,90,600
7	1046 of 2006	674 of 2002	172	516	3,95,000	2,37,000	516 + 1809 = 2325	3,90,600
8	1375 of 2008	669 of 2002	107, 107/1, 107	640	2,21,253	1,32,751	640 + 178 = 818	1,37,424
9	1376 of 2008	702 of 2002	17	875	1,60,000	96,000	875 + 0 = 875	1,47,000
10	2485 of 2008	672 of 2002	107	345	2,97,600	1,78,560	345 + 2282 = 2627	4,41,336
11	1379 of 2008	675 of 2002	94	301	93,000	55,800	301 + 0 = 301	50,568
12	1378 of 2008	671 of 2002	108	987.55	5,66,000	3,39,600	987 + 2251 = 3237	5,43,984
13	1377 of 2008	678 of 2002	80	1300	4,54,500	2,72,700	1300 + 00 = 1300	218,232

b) The claimants are also entitled for statutory benefits like additional components, solatium and interest on the enhanced amount of compensation as per the provisions of the Land Acquisition Act, 1894.

c) Rest of the judgment and award is confirmed.

d) Award be drawn up as per the above modification.

III. The respondents are directed to deposit the enhanced amount of compensation alongwith statutory benefits, in this Court

within a period of 12 weeks from today.

IV. If the court fees is not paid, on payment of deficit court fees, the enhanced amount of compensation be paid to the appellants-claimants.

V. Record and proceedings be send back.

[SANJAY A. DESHMUKH, J.]

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