

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

FIRST APPEAL NO.: 71 OF 2002

The State of Maharashtra.

... **APPELLANT**
[ORI. RESPONDENT]

VERSUS

1. Limbaji Dyandeo Nagargoje.
2. Vithal Dnyandeo M/g. Subabai Dnyandeo.
3. Jankabai Deoram.
Occu. of all is Agriculture,
Il R/o Wadgaon/ Chinchpur Pangul,
Tq. Pathardi, Dist. Ahmednagar.

... **RESPONDENTS**
[ORIG.CLAIMANTS]

Mr. V. H. Dighe, AGP for the Appellant.

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CORAM:-

T. V. NALAWADE, J.

DATED:-

17th DECEMBER, 2015.

ORAL JUDGMENT:

1. The appeal is filed by the State Government against the Judgment and Award of L.A.R. No. 41 of 1986 which was pending in the Court of Civil Judge, Senior Division, Ahmednagar. Heard learned A.G.P. Other side is duly served but nobody has turned up.

2. This Court has gone through the original record. It appears that group of matters was considered and decided together on the basis of common evidence. In the present matter, it was the case of the present original claimants that their land which is 16 Are was Bagayat land and this aspect is not considered by the Land Acquisition Officer. They produced 7/12 extract. In the judgment delivered by the Reference Court there is mention that one certificate was issued by Talathi but that document is not available and even Exhibit number of that document is not there in the original copy of the judgment. The crops were taken line *Jowar and Bajara* and on one occasion it was wheat. In view of these circumstances, it was difficult to believe that there was facility of irrigation. Thus, there is error committed by the Reference Court in presuming that the land acquired by Bagayat land.

3. However, it appears that the Land Acquisition Officer has given total compensation of Rs.1,680/- in respect of 16 Are portion by holding that it was Jirayat land and evidence was given to show that the market value in that year was

much higher. On that basis, the Reference Court has ascertained the market value and it is held that Rs.335/- per Guntha was the market value of Jirayat land. As in the present matter market value of Bagayat land which is Rs.500/- per Gunthas is given, this Court holds that appeal needs to be allowed to that extent and compensation needs to be given by presuming that it was Jirayat land. So, the rate can be Rs.335/- per Guntha.

4. The record shows that the Land Acquisition Officer has given Rs.10,347.40 Ps. as compensation in respect of 3 mango trees and 2 Jambhool trees on the basis of valuation made by the Valuer. The Reference Court has awarded Rs.14,730.52 for 3 mango trees and Rs.2,092.28 for 2 Jambhool trees. As there was nothing in rebuttal, this part of the decision cannot be disturbed.

5. In the result, the following order is made:

Appeal is partly allowed. Judgment and Award of the Reference Court is modified to make the compensation per

Gunthas as Rs.335/- and the decision given that it was Bagayat land and Rs.500/- per Gunthas is market price is hereby set aside. The statutory benefits and interest will be available on the amount which is enhanced by presuming that it is Jirayat land and the value was Rs.335/- per Gunthas. Remaining part of the judgment and Award is kept in-tact. Award to be prepared in aforesaid terms.

[T. V. NALAWADE, J.]

Dated:17/12/2015.
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