

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

**CIVIL APPLICATION NO. 2656 OF 2015
IN
FIRST APPEAL (ST.) NO. 292 OF 2015**

The State of Maharashtra & anr. ...Applicants

versus

Walmik Narayan Katkade & ors. ...Respondents

**WITH
CIVIL APPLICATION NO. 2520 OF 2015
IN
FIRST APPEAL (ST.) NO. 289 OF 2015**

The State of Maharashtra & anr. ...Applicants

versus

Subhash Bapurao Shinde & ors. ...Respondents

**WITH
CIVIL APPLICATION NO. 3374 OF 2015
IN
FIRST APPEAL (ST.) NO. 286 OF 2015**

The State of Maharashtra & anr. ...Applicants

versus

Shri Sant Sadguru Janardan Swami
Maungiri Maharaj Srikashi Vishvanath
Mahadeo Trust & ors. ...Respondents

.....
Mr. S. P. Daund, A. G. P. for applicant/State.
.....

CORAM : N.W. SAMBRE, J.

DATE : 18th APRIL, 2015

ORAL ORDER :

. For the reasons stated in the applications, delay caused

in preferring the appeals stand condoned. The civil applications stand allowed.

2. The appeals are taken up for final disposal at admission stage with the consent of the parties.

3. At the behest of the respondents-claimants in F.A.(St.) No. 292/2015, the award was delivered by the Reference Court on 12/09/2012 and at the behest of the respondents-claimants in F.A. (St.) No. 286/2015 and F.A.(St.) No. 289/2015, the award was delivered on 13/09/2012.

4. The land in question was acquired by the appellant for construction of high way for which notification under Section 4 of the Land Acquisition Act was issued on 21/03/2002 and award was passed on 03/04/2003.

Land Acquisition Officer ordered following compensation in L.A.R. No. 11/2005 [(F.A.(St.) No. 292/2015)]

66 Are land out of S. No. 399/2 at Rs.1,91,400/- @Rs.2,90,000/- per hectare, 53 Are land out of S. No. 396/2 at Rs. 1,21,900/- @ Rs.2,30,000/- per hector, 11 Are land out of S. No.396/1 @ Rs.12650 @ Rs.1,15,000/- per hectare and 14 Ares land out of S. No. 400/4 @ Rs.18,270/- @ Rs. 1,45,000/- per hectare.

As such, the Land Acquisition Officer awarded total compensation of Rs. 4,88,792/-.

Land Acquisition Officer ordered following compensation in L.A.R. No. 20/2005 [(F.A.(St.) No. 286/2015)]

92 Are land out of S. No. 395/2+3+4/1B @ Rs.1,58,700/- @ Rs.1,15,000/- per hectare and as such, the Land Acquisition Officer awarded total compensation of Rs. 2,25,354/-.

Land Acquisition Officer ordered following compensation in L.A.R. No. 15/2005 [(F.A.(St.) No. 289/2015)]

28 Are land out of S. No. 394/1A @ Rs.32,200/- @ Rs.1,15,000/- per hectare and as such, the Land Acquisition Officer awarded total compensation of Rs. 45,724/-.

5. Learned A. G. P. submits that the Reference Court granted enhancement contrary to the evidence on record.

6. The enhanced compensation was claimed before the Reference Court Rs. 27,61,208/- in L.A.R. No. 11/2005, Rs. 43,74,646/- in L.A.R. No. 20/2005 and Rs. 13,54,276/- in L.A.R. No. 15/2005. In support of the said claim, the claimant Walmiki in L.A.R. No. 11/2005 was examined at Exhibit-48, claimant Ambadas in L.A.R. No. 20/2005 was examined at Exhibit-23 and claimant Subhash in L.A.R. No. 15/2005 was examined at Exhibit-23. The Reference

Court having regard to the nature of evidence brought on record in oral form by claimants, rejected the same as was not supportive, however, has accepted the documentary evidence in the form of sale instances Exhibits-26, 58, 27, and 57. The Reference Court has taken into account the sale deed Exhibit-26 dated 02/05/2000. Based on the said evidence, the Reference Court has proceeded to pass award in question enhancing the claim.

7. The Reference Court has ordered the enhancement of compensation based on the sale instance at Exhibit-26.

8. In my opinion, the enhancement ordered by the Reference Court based on sale instances, is very much permissible in view of the provisions of 51(a) of the Act. Nothing adverse or contrary to the evidence considered by learned Reference Court is brought to the notice of this Court. As such, the appeal fails, stands dismissed.

9. In view of dismissal of the appeal, civil applications for stay stand disposed of.

[N.W. SAMBRE, J.]