

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 34 OF 2001

1. Laxman s/o Rangnath Zade,
Age : 38 years, Occu.: Agri,
R/o. Mangrul, Tal. Majalgaon,
District Beed

2. Bhagirthibai w/o Bhagwan Zade,
(Since died through her L.Rs.)

Damodhar s/o Gopinath Zade,
Age : 61 years, Occu.: Agri,
R/o. Mangrul, Tal. Majalgaon,
District Beed

.. Appellants

VERSUS

The State of Maharashtra

.. Respondent

WITH

FIRST APPEAL NO. 35 OF 2001

1. Laxman s/o Rangnath Zade,
Age : 38 years, Occu.: Agri,
R/o. Mangrul, Tal. Majalgaon,
District Beed

2. Damodhar s/o Gopinath Zade,
Age : 61 years, Occu.: Agri,
R/o. Mangrul, Tal. Majalgaon,
District Beed

..Appellants

VERSUS

The State of Maharashtra

.. Respondent

FIRST APPEAL NO. 36 OF 2001

Bhagirthibai w/o Bhagwan Zade,
(Since died through her L.Rs.)

Damodhar s/o Gopinath Zade,
Age : 61 years, Occu.: Agri,
R/o. Mangrul, Tal. Majalgaon,
District Beed

.. Appellant

VERSUS

The State of Maharashtra

.. Respondent

FIRST APPEAL NO. 37 OF 2001

Damodhar s/o Gopinath Zade,
Age : 61 years, Occu.: Agri,
R/o. Mangrul, Tal. Majalgaon,
District Beed

..Appellant

VERSUS

The State of Maharashtra

.. Respondent

FIRST APPEAL NO. 38 OF 2001

Damodhar s/o Gopinath Zade,
Age : 61 years, Occu.: Agri,
R/o. Mangrul, Tal. Majalgaon,
District Beed

..Appellant

VERSUS

The State of Maharashtra

.. Respondent

FIRST APPEAL NO. 39 OF 2001

Damodhar s/o Gopinath Zade,
 Age : 61 years, Occu.: Agri,
 R/o. Mangrul, Tal. Majalgaon,
 District Beed

..Appellant

VERSUS

The State of Maharashtra

.. Respondent

FIRST APPEAL NO. 40 OF 2001

1. Malikarjun s/o Govinda Katkar,
 Age : 78 years, Occu.: Agri,
 R/o. Mangrul, Tal. Majalgaon,
 District Beed
2. Bhimashankar s/o Malikarjun Katkar,
 Age : 48 years, Occu.: and r/o. As above
3. Suryakant s/o Malikarjun Katkar,
 (Since died, through L.Rs.)
 - 3a) Anuradha Suryakant Katkar
 - 3b) Suraj Suryakant Katkar,
 Age 16 years, U/G of mother Anuradha.
 - 3c) Nita Suryakant Katkar,
 Age 25 years,
 - 3d) Reshma Suryakant Katkar,
 Age : 21 years,.
 - 3e) Priya Surakant Katkar,
 Age : 21 years,

All r/o. Near New Water Tank,
 Majalgaon, Tal. Majalgaon,
 Dist. Beed.

..Appellants

VERSUS

The State of Maharashtra,

.. Respondent

Mr. V.D. Salunke, Advocate for the appellants
Mr. S.G. Sangle, A.G.P. for the respondent/State

CORAM : M.T. JOSHI, J.
DATE : 09/02/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. Aggrieved by the direction to pay lesser compensation than claimed by the claimants in land acquisition reference proceedings, the present first appeals are preferred.
3. The house properties of the present appellants of village Mangrul, Taluka Majalgaon, District Beed were acquired for the Jayakwadi project by the State. The notification under section 4 of the Land Acquisition Act, 1894 was published on 15th October, 1981. The Land Acquisition Officer offered the compensation at the rate of Rs. 4/- per sq. mtr. According to the present appellants, the market price of the land at the relevant time was Rs. 50/- per sq. mtr. Therefore, the land acquisition reference proceedings were filed.

4. Before the learned Reference Court, the oral statements of the claimants, the earlier judgements delivered by the earlier Judges of the Reference Court at Exhibit-41 and Exhibit-97 were relied. In the earlier judgements, reliance was placed on two earlier sale instances. Those sale instances were filed at Exhibit-52 and Exhibit-91. One of the purchaser was also examined. The earlier sale instances would show that the sale-deed described the land in the measurement of cubit meaning thereby 'hand'. In the earlier judgement, however, the measurements were wrongly described as 'cubic foot', which ought to have been 'cubit'. In the circumstances, in the present cases, the learned Judge of the Reference Court took into consideration the length of one cubit as 1.75 foot, calculated the area as sold under the sale instances and thereafter, the issue of escalation in prices in view of the fact that the said sales were of the years 1973 and 1975, while the notification under section 4 of the Land Acquisition Act in the present cases was issued on 15th October, 1981. In the circumstances, the true market price was determined at Rs. 2.50 per sq. foot i.e. Rs. 25/- per sq. mtr.

5. Mr. V.D. Salunke, learned counsel for the appellants, submits that the learned Judge of the Reference Court refused to rely on the earlier judgements of the another judge wherein the compensation at the rate of Rs. 50/- per sq. mtr. was granted. Mr. Salunke relied on the judgement of this Court dated 19th November, 2014 delivered in First Appeal No. 315/1994 and other first appeals. The true copy of the said judgement dated 19th November, 2014 is produced on record which is accepted and marked "X" for the purpose of identification.

6. On the other hand, Mr. S.G. Sangle, learned A.G.P. submitted that there is no dispute that the reasoning in the earlier judgements before the learned Reference Court regarding the same land acquisition proceedings can be considered which has been highlighted in the judgement delivered by this Court in group of first appeals i.e. First Appeal No. 315/1994 and others. Mr. Sangle, however, submitted that if in the earlier judgements, there is mistake in the measurement, said mistake cannot be repeated by the Court. He further

submitted that the sale instances are for small pieces of land and therefore, even this sale instance ought not to have been relied on by the learned Reference Court.

7. On the basis of above material on record and the submissions advanced on behalf of both sides, the following point arises for my determination:-

"Whether the market price fixed by the learned Reference Court represents true market value ?"

My finding to the above point is in the affirmative and hence, all the appeals are dismissed without any order as to costs, for the reasons to follow:-

R E A S O N I N G

8. It should be noted that while in the earlier judgements, relied on by the appellants/claimants in the present proceedings before the learned Reference Court, the learned Judge has committed a mistake in making calculation and has used the term "cubic foot", which naturally could not have been there. The learned Judge,

in the present case, has correctly highlighted as to where the mistake has occurred in the earlier judgements.

9. As per the earlier sale instance, the market price of the land at that time was around Rs. 15/- per sq. mtr. Taking into consideration the escalation in the prices, in the present cases, the market price was fixed at Rs. 25/- per sq. mtr.

10. The submissions of Mr. S.G. Sangle, learned A.G.P. that the sale instances being for small pieces of land could not have been considered, cannot be accepted as we are dealing with the house properties and not the agricultural properties. In these circumstances, finding no defect in the reasoning of the learned Judge of the Reference Court, the following order:-

11. All the present appeals are hereby dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE

