

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

FIRST APPEAL NO.335 OF 2001

The State of Maharashtra
Through Special Land Acquisition
Officer, Jalgaon

..Appellant

Versus

Sukhdeo Nago Patil,
Age 50 years, Occu.Agriculture,
R/o Khadkisim, Taluka Chalisgaon,
District Jalgaon

..Respondent

- WITH -

FIRST APPEAL NO.336 OF 2001

The State of Maharashtra
Through Special Land Acquisition
Officer, Jalgaon

..Appellant

Versus

Laxman Shankar Wani,
Age 40 years, Occu. Agriculture,
R/o Mehunbare, Taluka Chalisgaon,
District Jalgaon

..Respondent

- WITH -

FIRST APPEAL NO.337 OF 2001

The State of Maharashtra
Through Special Land Acquisition
Officer, Jalgaon

..Appellant

Versus

Nathu Ankush Patil,
Age 50 years, Occu.Agriculture,
R/o Khadkisim, Taluka Chalisgaon,
District Jalgaon

..Respondent

- WITH -

FIRST APPEAL NO.338 OF 2001

The State of Maharashtra
Through Special Land Acquisition
Officer, Jalgaon

..Appellant

Versus

Zulal Kashinath Patil,
Age 50 years, Occu.Agriculture,
R/o Khadkisim, Taluka Chalisgaon,
District Jalgaon

..Respondent

- WITH -

FIRST APPEAL NO.339 OF 2001

The State of Maharashtra
Through Special Land Acquisition
Officer, Jalgaon

..Appellant

Versus

Chintaman Dajee Patil,
Age 35 years, Occu. Agriculture,
R/o Khadkisim, Taluka Chalisgaon,
District Jalgaon

..Respondent

- WITH -

FIRST APPEAL NO.340 OF 2001

The State of Maharashtra
Through Special Land Acquisition
Officer, Jalgaon

..Appellant

Versus

Ramsing Daji Patil,
Age 45 years, Occu. Agriculture,
R/o Khadkisim, Taluka Chalisgaon,
District Jalgaon

..Respondent

- WITH -

FIRST APPEAL NO.341 OF 2001

The State of Maharashtra
Through Special Land Acquisition
Officer, Jalgaon

..Appellant

Versus

Dinkar Kashinath Patil,
Age 50 years, Occu. Agriculture,
R/o Khadkisim, Taluka Chalisgaon,
District Jalgaon

..Respondent

Mr P.P. More, A.G.P. for appellant
Mr V.G. Sakolkar, Advocate for respondent in F.A.No.335/2001
Mr S.C. Swami, Advocate h/f Mr V.D. Gunale, Advocate for respondent
in F.A.No.336 of 2001 and in F.A.No.338 of 2001 to 341 of 2001
Mr S.G. Shinde, Advocate for respondent in First Appeal No.337/2001

CORAM : N.W. SAMBRE, J.

DATE : 23rd July 2015

ORAL JUDGMENT

1. The present appeals are preferred by the State Government questioning the award delivered under Section 18 of the Land Acquisition Act by learned Civil Judge, Senior Division, Jalgaon on 19th April 2000 in Land Acquisition Reference N.305 of 1991 along with other connected references.

2. The State Government, feeling aggrieved by the enhancement ordered, has preferred the present appeals, as according to learned A.G.P., the enhancement granted was exorbitant and contrary to the appreciation of evidence made by the Land Acquisition Officer. According to him, the reference Court has arrived at a conclusion of evaluation of Rs.90,000/- per hectare for the Jiyaayat land which is without any basis.

3. Mr Swami, learned Counsel for respondents/claimants would urge that the enhancement as is granted was based on the sale instances and the fertility of land. It is further urged by him that the sale instance which is placed on record was not controverted by the appellant and nothing could be elicited from the cross-examination of the claimants during the course of proceedings before the Civil Judge, Senior Division, seeking enhancement. In addition to above, he would urge that the enhancement is just and proper and in some cases, it is very meager and as such, sought dismissal of the suit.

4. With the assistance of respective counsel, I have perused the record and proceedings of the present appeals. I have also gone through the award under Section 11 delivered by the Land Acquisition Officer wherein it could be noticed that the Land Acquisition Officer has categorised the lands under acquisition based on the revenue assessment which was 0.1 ps. to Rs.10/- and based on the same, the classification of lands under acquisition was done.

5. Apart from above, the Land Acquisition Officer has taken into account the sale instances which were called by him from the Talathi and were for a period from 1983 to 1986. The last sale instance that was brought on record was from village Chinchegavan of 30th April 1986, wherein the 40-R land appears to have been sold at Rs.5,000/-.

6. Apart from above, the Land Acquisition Officer has proceeded to discuss the value of each of the block numbers in the background of abovesaid sale instance and awarded compensation. Exh.16 an award delivered by the Land Acquisition Officer was placed before the

learned reference Court. The reference Court then has proceeded to consider the fact as regards acquisition of land for the purpose of construction of Left Bank Canal-10 of Khaadkisim Taluka Chinchgaon. It is further noticed that the claimants as against the award delivered by the Special Land Acquisition have sought enhancement at the rate of Rs.1 lac per acre.

7. Pursuant to the claim put forth, the acquiring body filed its reply and resisted the claim and sought dismissal of the same by relying upon the award delivered by the Special Land Acquisition Officer.

8. It is further required to be noted here that the claimants have examined Sukhdeo, at Exh.25 who has deposed that the value of the three jirayat lands which were acquired for the construction of Girna left bank Canal, Khadkisim was Rs.1 lac per acre. It is further deposed by the said witness that there are different sale instances which can be relied upon for granting compensation. From the record it appears that there were two sale instances which were placed on record by the claimants and have also placed certified copies thereof on record. The witnesses in support of such sale deeds were also examined and it was disclosed that the said land was sold by virtue of Exh.29 is in close proximity to the land under acquisition. Apart from above, the other sale instance Exh.30 was pertaining to the land bearing Gut No.355 which was sold for Rs.65,000/- on 17th June 1986. The fact remains that in the present case, Section 4 notification was published on 12th February 1987 whereas in the Government gazette same was notified on 8th May 1986. The sale instance Exh.30 that was

subsequent to publication of Section 4 notification in the Government gazette, however, nothing could be elicited from the cross-examination of the witness by the appellant herein so as to establish their case that the sale deed was prepared with an intention to claim exorbitant enhancement. Apart from above, it is required to be noted that the land of which the sale instance Exh.30 was produced was located at a distance of 3 Kms. in the same village and the said aspect was given weightage by the reference Court and has reached to a conclusion that the enhancement to the extent of Rs.90,000/- per hectare was based on sale instance Exh.30, which was rightly proved before the reference Court and the fact that the enhancement was ordered on 19th April 2000 and since then no interim order is passed in favour of the present appellant.

9. Apart from above, perusal of award reflects that in some cases a very meager amount of compensation is awarded.

10. In my opinion, the enhancement granted by the reference Court is just and proper.

11. As such, no case for interference is made out. The appeals fail, stand dismissed.

(N.W. SAMBRE, J.)

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