

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 428 OF 1999

Gangaram Manika Binkate
Since deceased, through L.Rs.

- 1A. Mathurabai w/o Gangaram Binkate,
Age : 60 years, Occu. Household
- 1B. Balaji s/o Gangaram Binkate,
Age : 35 years, Occu. Agri.
- 1C. Radhesham s/o Gangaram Binkate
Age : 30 years, Occu. Agri.
- 1D. Umakant s/o Gangaram Binkate,
Age : 27 years, Occu. Agri.
- 1E. Sou. Rukhaminibai w/o Baburao Rode,
Age : 40 years, Occu. Household
- 1F. Gayabai w/o Suresh Shirage,
Age ; 38 years, Occu. Household

All r/o Andga, Tq. Kandhar,
District Nanded

APPELLANTS

VERSUS

The State of Maharashtra,
through Collector, Nanded

RESPONDENT

WITH

FIRST APPEAL NO. 71 OF 2003

- 1. Vishwanath s/o Kasinath Mastapure,
Age : 32 years
- 2. Govind s/o Kasinath Mastapure,

Age : 30 years

3. Mallikarjun s/o Kashinath Mastapure,
Age : 28 years
4. Vithalprashad s/o Kashinath Mastapure,
Age : 26 years

All agriculturists

5. Gurunath s/o Kashinath Maastapure
(minor) u/g of his mother
Padminabai w/o Kashinath Mastapure,
Age : 55 years, Occu. Agri.
6. Sainath s/o Kaashinath Mastapure,
Minor u/g of mother Padminabai w/o
Kasinath Mastapure,
Age : 55 years, Occu. Agri.,

APPELLANTS

VERSUS

The State of Maharashtra,
through Collector, Nanded

RESPONDENT

AND

FIRST APPEAL NO. 429 OF 1999

Chandrakalabai w/o Pandit Madge,
Age : 37 years, Occu. Agri.,
R/o Andga, Tq. Kandhar,
District Nanded

APPELLANT

VERSUS

The State of Maharashtra,
through Collector, Nanded

RESPONDENT

AND

FIRST APPEAL NO. 431 OF 1999

Sainappa s/o nagu Madge,
Since deceased through L.Rs.

- 1a. Smt. Rajabai w/o Sainappa Madge,
Age : 95 years, Occu. Nil
- 1b. Smt. Prayagbai w/o Sainappa Madge,
Age : 90 years, Occu. Nil
- 1c. Namdev s/o Sainappa Madge,
Age : 60 years, occu. Agri.
- 1d. Khushal s/o Sainappa Madge,
Age : 50 years, occu. Agri.
- 1e. Vithal s/o Sainappa Madge,
Age : 40 years, Occu. Agri.
- 1f. Sudhakar s/o Sainappa Madge,
Age : 35 years, occu. Agri.
- 1g. Madhukar s/o Sainappa Madge,
Age : 25 years, Occu. Agri.
- 1h. Smt. Muktabai w/o Narayan Warkad,
Age : 60 years, Occu. Nil

All r/o Andaga, Tq. Loha,
District Nanded

APPELLANTS

VERSUS

The State of Maharashtra
through Collector, Nanded

RESPONDENT

AND

FIRST APPEAL NO. 1479 of 2014

Panditrao s/o Madhavrao Madge

Since deceased, through L.Rs.

1a. Smt. Chandrakalabai w/o Panditrao Madge,
Age : 56 years, Occu. Household,
R/o Andga, Tq. Loha, Dist. Nanded

1b. Shri Sonakishore s/o Panditrao Madge,
Age : 37 years, Occu. Labour,
R/o as above.

1c. Sou Surekha w/o Bhagwanrao Burphule,
Age : 35 years, Occu. Household,
R/o Limbachiwadi, Tq. Kandhar,
District Nanded

1d. Sou Sunita w/o Shivaji Yeilwad,
Age : 33 years, Occu. Household,
R/o Sanguchiwadi, Tq. Kandhar,
District Nanded

1e. Manoj s/o Panditrao Madge,
Age : Nil, R/o Andga, Tq.
Loha, District Nanded

APPELLANTS

VERSUS

The State of Maharashtra
through Collector, Nanded

RESPONDENT

AND

FIRST APPEAL NO. 1665 OF 2014

Dhondiba s/o Bhujanga Jillewad,
Age : 40 years, Occu. Agri.,
R/o Andaga, Tq. Kandhar,
District Nanded

APPELLANT

VERSUS

The State of Maharashtra,
through Collector, Nanded

RESPONDENT

AND

FIRST APPEAL NO. 225 OF 2000

Ramrao s/o Piraji Surnar,
Age : 25 years, Occu. Agri.,
R/o Gaundgaon, Tq. Kandhar,
District Nanded

APPELLANT

VERSUS

The State of Maharashtra,
through Collector, Nanded

RESPONDENT

AND

FIRST APPEAL NO. 286 OF 2000

Dagadu s/o Hariram Shewade,
Age : 35 years, Occu. Agri.,
R/o Goundgaon, Tq. Kandhar,
District Nanded

APPELLANT

VERSUS

The State of Maharashtra,
through Collector, Nanded

RESPONDENT

AND

FIRST APPEAL NO. 655 OF 2001

Piraji s/o Ramrao Surnar
Since deceased, through L.R.
Annasaheb Piraji Surnar,
Age : 30 years, Occu. Agri.,
R/o Gaundgaon, Tq. Kandhar,
District Nanded

APPELLANT

VERSUS

The State of Maharashtra,
through Collector, Nanded

RESPONDENT

AND

FIRST APPEAL NO. 415 OF 2000

1. Devidas s/o Ramrao Patil,
Age : 52 years
2. Balaji s/o Ramrao patil,
Age : 48 years
3. Prakash s/o Ramrao Patil,
Age : 44 years
4. Khanderao s/o Ramrao Patil,
Age : 40 years.

All occu. Agri., R/o Andga,
Tq. Kandhar, Dist. Nanded

APPELLANTS

VERSUS

The State of Maharashtra
through Collector, Nanded

RESPONDENT

Mr. M.M. Patil-Beedkar, Advocate for the appellants
in all the appeals

Mr. S.G. Sangle, Mr. S.P. Daund and Mr. S.M. Jadhav,
A.G.Ps. For the respondent/State in all the appeals

CORAM : M.T. JOSHI, J.

DATE : 02/02/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. Aggrieved by the direction to pay compensation lesser than claimed by the present appellants i.e. owners of the respective lands, the present first

appeals are preferred by the original claimants.

3. The lands of the present appellants of village Andga, Taluka Kandhar, District Nanded were acquired by the State for the construction of Upper Manar Project for submergent area. The notification under section 4 of the Land Acquisition Act, 1894 was published on 24th November, 1988. The same was published in the newspaper on 16th December, 1988.

4. The Land Acquisition Officer while offering the compensation, has categorized the lands in various groups. Thereafter he took into consideration the sale instances groupwise and offered the compensation at the rate of Rs. 18,000/- per hectare for dry crop land and Rs. 27,000/- per hectare for irrigated land. Aggrieved by the same, the land acquisition reference applications were preferred by the original claimants. All the land acquisition references were tried together and the evidence was recorded in Land Acquisition Reference No. 96/1993, out of which now First Appeal No. 71/2003 has arisen.

5. As far as the area under acquisition is concerned, there is no issue before the Court as the appellants have accepted the determination of area in this regard. Further, the issue regarding the compensation towards pipeline, etc. is also not disputed. The dispute is only regarding true market price of the lands on the date of issuance of notification under section 4 of the Land Acquisition Act.

6. The appellants have relied on the sale instances at Exhibit-17 to Exhibit-21 before the learned Reference Court. Except sale instance (Exh-17), the other sale instances were of different village, namely, Vithalwadi (Loha). The learned Reference Court did not place reliance over those sale instances.

7. As regards sale instance at Exhibit-17, it was found that it was the sale-deed dated 9th August, 1985, executed by one Manikrao Venkatrao Shinde in favour of Maroti Manika Shinde. The said sale-deed was in respect of land admeasuring 1 hectare 20 Ares from Survey No. 68/1/C, situated at village Gaundgaon. The learned

Reference Court accepted that the sale instance was regarding the land situated in the vicinity of the land acquired though from the other village. The learned Reference Court has observed that since the land was purchased by the adjoining land-owner for the price of the land i.e. Rs. 50,000/- per hectare, 40 per cent deduction towards the said fact will have to be made. Therefore, the market price of the land under acquisition, as held by the learned Reference Court, was Rs. 30,000/- per hectare for dry-crop land and Rs. 45,000/- per hectare for the irrigated land.

8. The appellants also relied on the judgement passed in Land Acquisition Reference No. 1445/1990, arising out of the same land acquisition proceedings, however, from different village, namely, Ruisangavi. It was the claim of the present appellants that the said land under L.A.R. No. 1445/1990 was 2 1/2 Kms. away from village Andga where the acquired lands are situated. However, the said statement was not relied on by the learned Judge of the Reference Court.

9. Mr. M.M. Patil-Beedkar, learned counsel for the

appellants, submits that without going into the question as to whether the other sale instances at Exhibit-18 to Exhibit-21 could have been relied on by the learned Reference Court, the sale instance (Exhibit-17) has definitely proved the fact that the land under the sale instance is in the vicinity of the acquired lands. The learned Reference Court has assumed 40 per cent deduction in the price on the ground that the said land was purchased by the adjoining land-owner. According to him, the learned Reference Court, however, lost sight of the fact that the transaction in respect of the land under sale instance (Exh-17) had taken place on 9th August, 1985 while the notification under section 4 of the Land Acquisition Act as regards the acquired lands was published on 24th November, 1988. Mr. Patil further submitted that the learned Reference Court ought to have estimated the escalation in the price at the rate of 10 per cent per year and though deduction of 40 per cent earlier was accepted, 30 per cent price rise ought to have been calculated. He further submitted that so far as irrigated lands are concerned, the learned Reference Court ought to have granted double compensation instead of 50 per cent increase in comparison to the price of

dry-crop lands.

10. The learned A.G.Ps. opposed the submissions advanced on behalf of the appellants. They submitted that the learned Reference Court has properly appreciated the material on record.

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

“Whether the compensation granted by the learned Reference Court is just compensation ?”

My finding to the above point is in the negative. The appeals are, therefore, partly allowed, for the reasons to follow :

R E A S O N S

12. The sale instance at Exhibit-17 would show that the land admeasuring 1 hectare 20 Ares of village Gaundgaon was sold for a consideration of Rs.30,000/- on

9th August, 1985. The learned Reference Court has accepted the said sale instance for comparing the market price of the acquired land. It was found that the said land was purchased by the adjoining land-owner. Therefore, 40 per cent deduction was assumed by the learned Reference Court. Thus, the price of the land under the sale instance (Exh-17) was held to be Rs. 20,000/- per acre i.e. Rs. 50,000/- per hectare. However, it appears that the learned Judge of the Reference Court lost the sight of the fact that the sale instance (Exh-17) was three years older than the date of notification published under section 4 of the Land Acquisition Act. In the circumstances, 7.5 per cent increase in the price per year as regards the agricultural land ought to have been estimated by the learned Reference Court. Thus, there would be 22.5 per cent increase in the estimated price of Rs. 30,000/- per hectare for dry-crop land, which would thus come to Rs. 36,750/- per hectare.

13. Mr. Patil submitted that in fact, the deduction of 40 per cent itself was not required as the area of the land under the sale instance is a larger area and

therefore, the issue of purchase of the said land by the adjoining land-owner would not survive. However, the finding of the learned Reference Court that as the land under the sale instance was purchased by the adjoining land-owner, 40 per cent deduction was made, in my view, cannot be faulted with.

14. Thus, in view of the above facts, the true market value of the land acquired was Rs. 36,750/- per hectare for the dry-crop land, as on the date of publication of the notification under section 4 of the Land Acquisition Act.

15. It is now well established that for irrigated land, the market price would be double the price of the dry-crop land. In the circumstances, the reasoning of the learned Judge of the Reference Court that the market value of the acquired irrigated land was one and half times to the price of the dry-crop land cannot be sustained. Thus, for the irrigated land, the market price would come to Rs. 36,750/- plus Rs. 36,750/- = Rs. 73,500/- per hectare.

16. The reliance placed on the judgement in other land acquisition references, as detailed above, is in respect of the lands from different villages in which the reliance was placed on several other land acquisition references. In absence of any material to show that the lands are comparable to the present lands, in my view, no reliance can be placed on the same.

17. Considering all these facts on record and the discussion made hereinabove, the following order:-

18. All the appeals are partly allowed with proportionate costs.

. The respondent/State shall pay to the appellants/claimants the compensation at the rate of Rs. 36,750/- per hectare for dry-crop land and Rs. 73,500/- per hectare for irrigated land, with interest, component and solatium as provided by the provisions of the Land Acquisition Act.

. All the appeals are disposed of accordingly.

[M.T. JOSHI]
JUDGE