

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

FIRST APPEAL STAMP NO. 5027 OF 2014

The Executive Engineer Irrigation
Department Osmanabad .. Appellant

Versus

The State of Maharashtra through
Collector, Osmanabad and another .. Respondents

WITH

FIRST APPEAL STAMP NO. 5074 OF 2014

The Executive Engineer Irrigation
Department Osmanabad .. Appellant

Versus

The State of Maharashtra through
Collector, Osmanabad and another .. Respondents

Shri Gulab B. Rajale, Advocate for the Appellant in both matters.
Shri D. V. Tele, A.G.P. for the Respondent No. 1 in both matters.
Shri R. P. Adgaonkar, Advocate for the Respondent No. 2 in both matters.

CORAM : S. V. GANGAPURWALA, J.

DATE : 10TH SEPTEMBER, 2015.

PER COURT :

. The respondents/claimants had filed petitions U/Sec. 18 of the Land Acquisition Act (for short "L.A. Act") being dissatisfied by the compensation awarded by the Special Land Acquisition Officer (for short "S.L.A.O."). The said references are partly

allowed. Aggrieved thereby the acquiring body has filed present appeals.

2. Mr. Rajale, the learned counsel for the appellant submits that, the lands of the claimants were acquired for Tambewadi project from various villages. The lands acquired were situated in village Deolali and Tambewadi. According to the learned counsel, the sale deeds in respect of small area of lands were considered while enhancing compensation amount. The S.L.A.O. had awarded compensation from Rs. 14,000/- to Rs. 23,500/- per hector, whereas the Reference Court enhanced the same and granted compensation at different rates for Jirayat land, Seasonally irrigated land and irrigated land. According to the learned counsel addition of 30% has been made over the valuation of the sale deed. The learned counsel submits that, the land under the sale deed is of different village i. e. village Umbarge, which could not be said to be comparable sale instance. It is almost five to six kilometers away from the acquired land. The learned counsel further submits that, the sale deeds submitted by the acquiring body have not been considered by the Reference Court.

3. The learned counsel for claimants submits that, the Reference Court has awarded compensation at lower rate and individual appeals are also filed by some of the claimants. According to the learned counsel, the lands acquired were of

higher quality. The land of village Umberga is situated hardly at the distance of one kilometer from the acquired lands. Various lands from different villages have been acquired for Tambewadi project. In fact, the Court ought not have deducted the amount for considering the valuation of the land under the sale deed.

4. I have considered the submissions canvassed by the learned counsel for respective parties. The Reference Court has given detail reasonings for consideration of the said sale deeds. Considering the land to be Jirayat, seasonally irrigated and irrigated the compensation has been awarded. Even S.L.A.O. has made the distinction of Jirayat, Semi Irrigated and irrigated lands while awarding compensation. The sale instance has been properly considered.

5. The Division Bench of this Court in an appeal arising out of the reference in respect of land acquired for the very same Tambewadi project had considered the said aspect and had dismissed the appeals filed by the acquiring body vide judgment and order dated 20.06.2014 in First Appeal Stamp No. 22616 of 2008 with other connected appeals.

6. Considering the aforesaid aspects of the matter, the sale instances are properly considered. The lands acquired are also from one acre to five/six acres, the enhancement would not be much. Considering the said aspects of the matter and also

judgment and order dated 20.06.2014 of the Division Bench of this Court in First Appeal Stamp No. 22616 of 2008 with other connected appeals, present appeals also stand dismissed. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Sept. 15