

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

FIRST APPEAL NO.94 OF 2015

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| 1. | The State of Maharashtra,
Through : The Special Land
Acquisition Officer, J.P. No.1,
Aurangabad | |
| 2. | The Executive Engineer,
Minor Irrigation (Local Sector),
Aurangabad | ..Appellants
(Orig.Respondents) |

Versus

- | | | |
|----|---|------------------------------------|
| 1. | Sominath Namdeo Mhase,
Age 38 years, Occu. Agri.,
R/o Kanhori, Taluka Phulambri,
District Aurangabad | |
| 2. | Vinayak Namdeo Mhaske,
Age 36 years, Occu. Agri.,
R/o Kanhori, Taluka Phulambri,
District Aurangabad | ..Respondents
(Orig. Claimants) |

- WITH -

FIRST APPEAL NO.92 OF 2015

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| 1. | The State of Maharashtra,
Through : The Special Land
Acquisition Officer, J.P. No.1,
Aurangabad | |
| 2. | The Executive Engineer,
Minor Irrigation (Local Sector),
Aurangabad | ..Appellants
(Orig.Respondents) |

Versus

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|---|--|----------------------------------|
| - | Bhagchand Mansing Barwal,
Age 60 years, Occu. Agri.,
Kanhori, Taluka Phulambri,
District Aurangabad | ..Respondent
(Orig. Claimant) |
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- WITH -

FIRST APPEAL NO.96 OF 2015

1. The State of Maharashtra,
Through : The Special Land
Acquisition Officer, J.P. No.1,
Aurangabad
 2. The Executive Engineer,
Minor Irrigation (Local Sector),
Aurangabad
- ..Appellants
(Orig.Respondents)

Versus

- Ramsingh Bhurasing Barwal
Age 60 years, Occu. Agri.,
R/o Kanhori, Taluka Phulambri,
District Aurangabad
- ..Respondent
(Orig. Claimant)

FIRST APPEAL NO.97 OF 2015

1. The State of Maharashtra,
Through : The Special Land
Acquisition Officer, J.P. No.1,
Aurangabad
 2. The Executive Engineer,
Minor Irrigation (Local Sector),
Aurangabad
- ..Appellants
(Orig.Respondents)

Versus

1. Rupchand Ratan Barwal,
Age 75 years, Occu. Agri.,
 2. Dhansingh Rupchand Barwal,
Age 25 years, Occu. Agri.,
- Both r/o Kanhori, Taluka Phulambri,
District Aurangabad
- ..Respondent
(Orig. Claimant)

FIRST APPEAL NO.91 OF 2015

1. The State of Maharashtra,
Through : The Special Land
Acquisition Officer, Jayakwadi
Project No.1,
Aurangabad
2. The Executive Engineer,
Minor Irrigation (Local Sector),
Aurangabad

..Appellants
(Orig.Respondents)

Versus

1. Sunitabai Vinayak Mhaske,
Age 34 years, Occu. Agri.,
2. Sangeetabai Janardhan Mhaske,
Age 36 years, Occu. Agri.,
3. Kantabai Sahebrao Mhaske,
Age 26 years, Occu. Agri.,
4. Sahebrao Namdev Mhaske
Age 30 years, Occu. Agri.,

All R/o Kanhori, Taluka Phulambri,
District Aurangabad

..Respondents
(Orig. Claimants)

Mr G.R. Ingole, A.G.P. for appellants
Mr A.B. Kale, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 14th July 2015

PER COURT

1. These appeals are by the State Government and by Acquiring
Body questioning the award granting enhancement by the 6th Joint
Civil Judge, Senior Division, Aurangabad.

2. The lands in question which are located at village Kanhori, Taluka Phulambri, District Aurangabad were acquired for percolation tank. Section 4 notification was issued on 24th April 2003 and declaration under Section 6 on 6th November 2003. The award was passed on 7th May 2005 awarding compensation at the rate of Rs.900/- per R considering the lands in question as non-irrigated.

3. The claimants – land owners being dissatisfied with the offer made by the Special Land Acquisition Officer preferred references and sought enhancement to the tune of Rs.3,000/- per R. The enhancement was sought to be justified based on the irrigation facility, the crop pattern and the sale instance. It is claimed by the claimants that the lands in question were having irrigation facility from Gut No.183 and though there is an entry in 7/12 extract as regards well, the crops like Bajara, Jawar, Cotton, Wheat etc. were harvested. In addition to above, it was claimed by the claimants before the reference Court that the sale instance dated 15th March 2002 in respect of 81-R land of Gut No.135 of village Kanhori, Taluka Phulambri which is in close proximity of the lands in question could be relevant and as such, was taken into account by the reference Court and granted compensation at the rate of Rs.2,954/- per R except in L.A.R.No.547/2006, in which compensation was granted at the rate of Rs.1,969/- per R based on the above sale instance and fertility of land, including the irrigation facility.

4. Learned Assistant Government Pleader has questioned the said enhancement based on two counts, (i) that the agricultural facility as is considered to be basis for enhancement could be same irrigated was not proved and (ii) the compensation to the land pertaining to sale instance in question dated 15th March 2002 was calculated at the rate of Rs.1,790/- per R.

5. Learned Counsel for the claimants supported the claim delivered by the reference Court and would urge that the award of enhanced compensation is based on the evidence that was brought on record. He has invited attention of this Court to Exh.20 7/12 extract, Exh.21 mutation entry No.560, Exh.22 and 7/12 extract as regards Gut No.183 so as to demonstrate the availability of irrigation facility. In addition to above, he has taken me through the observations made by the reference Court in relation to sale deed of Gut No.135 of 81 R land, which was sold for a consideration of Rs.1,45,000/-.

6. Learned Counsel for the claimants submits that the appeals are liable to be dismissed.

7. Having considered the rival contentions of the parties, it is required to be noted that for the purpose of cropping pattern and the irrigation facility what is required to be taken into account the revenue entries, as are available at Exh.21 and Exh.22 which have presumptive value under Section 79 of the Evidence Act. Same depicts the cropping pattern and availability of irrigation facility.

8. Based on the same and oral evidence brought on record, learned reference Court has rightly taken into account the evidence as regards availability of irrigation facility.

9. Apart from above, it is required to be taken note of the fact that the sale deed 15th March 2002 is prior in point of time as that of issuance of Section 4 notification which is 24th April 2003. The said sale instance which is in regard to Jirayat land was rightly taken into account and the addition of 10% (+) the multiplier thereof by one and half time is granted in view of the nature of the land in question as land with same irrigation facility.

10. In L.A.R. No.547/2006 (challenged in First Appeal No.94 of 2015), the reference Court has rightly treated the said land as dry crop land, in absence of any entry in 7/12 as regards existence of well.

11. The enhancement granted, as such is justified. No case for interference is made out. The appeals fail, stand dismissed.

(N.W. SAMBRE, J.)

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