

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Civil Appellate Jurisdiction.**

**FIRST APPEAL NO. 1691 OF 2007
WITH
FIRST APPEAL NO.104/2008.
FIRST APPEAL NO.1771/2015.**

THE STATE OF MAHARASHTRA.
VERSUS
MACHINDRANATH AWADINATH PANDAGALE

THE STATE OF MAHARASHTRA.
VERSUS
CHANDRABHAN PANDAGALE & ORS.

THE STATE OF MAHARASHTRA.
VERSUS
AWADINATH since dead, through LR's.

Appearance =>

In FA No.1691/07.

Mr. D.R. Korde, Additional Government Pleader for the
State of Maharashtra.

Mr. A.B. Kale, Advocate for Respondent Nos. 1,2A to 2E, 3
and 4.

In FA No.1771/15.

Mr. D.R. Korde, Additional Government Pleader for the
State of Maharashtra.

Mr. A.B. Gatne, Advocate for Respondent Nos. 1 and 2.

Mr. A.B. Kale, Advocate for Respondent Nos. 3A & 3B.

In FA No.104/08.

Mr. D.R. Korde, Additional Government Pleader for the
State of Maharashtra.

Mr. A.B. Gatne, Advocate for Respondent Nos. 1A to 1G.

Mr. A.B. Kale, Advocate for Respondent Nos. 1A, 1C, 1D and 1G.

CORAM : S.V. Gangapurwala, J.

DATE : 8th October, 2015.

Per Court :-

The Reference Court has partly allowed the Land Reference Applications filed by the claimants under Section 18 of the Land Acquisition Act thereby, the State has preferred present Appeals.

[2] Mr. Korde, learned counsel Additional Government Pleader submits that the Reference Court while enhancing the compensation amount to Rs.270/- per Are has relied upon the sale instance of the year 1993. According to the learned Additional Government Pleader, the said sale instance is of bagayat land and same is not in respect of similarly situated land. The learned Additional Government Pleader further submits that in First Appeal No. 1691 Of 2007 the Reference Court has granted enhanced compensation for the fruit bearing trees though Valuer's report is not accepted as it is still, compensation is enhanced, considering 50% of the amount of the Valuers report. The learned Additional Government Pleader submits that, there is no basis for the same.

[3] Mr. Kale, learned counsel for the Respondents submits that though in First Appeal No.1691/2007, the Reference Court has considered in the discussion that land to be bagayat land, still the

court has awarded the compensation considering it to be jirayat land. He submits that, there was no reason to deduct the amount to the extent to 50% as valued by the Expert Valuer. He has also proved the Valuers Report by his evidence.

I have considered the submissions and the Record & Proceedings.

[4] The Reference Court has considered the land as jirayat land and valued the said land as Rs.10900/- per acre. the Special Land Acquisition Officer has valued the same as Rs.7000/- per acre i.e. Rs.107 per Are. Sale instance relied can be said to be exemplar sale deed. Said fact has been discussed by the Reference Court. Even otherwise, compensation arrived at Rs.10900/- is modest one.

As far as tree are concerned, the Reference Court has not awarded the amount as valued by the Valuer. The Reference Court has deducted 50% of amount while considering the value of the trees, from the Valuation made by the Valuer, on the ground that, length of the trees has been excessively shown thereby, awarded Rs.125,290/- for 125 pomegranate trees and Rs.4355 for 2 mango trees.

[5] Number of trees is not disputed even by the State. It would appear that while passing he award, the Reference Court has not passed any order regarding statutory benefits i.e. Section/s 34 and 28 of the Land Acquisition Act. Claimant would be entitled for the statutory benefits. Of course, they will not entitle for the said benefits from the date when possession has been taken prior to

notification under Section 4 of “the Act” and only after the Notification under Section 4 of “the Act”. In the result, I pass the following order :-

ORDER

(i) First Appeals are dismissed.

(ii) However, in addition to compensation awarded by the Reference Court, claimants would be entitled for statutory benefits under Section/s 34 and 28 of the Land Acquisition Act.

(iii) First Appeals accordingly disposed of.

(S.V. GANPURWALA, J.)