

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 140 OF 2002

Bajirao s/o Amrita Bhosale,
(Since died, through L.Rs.)

A) Vasant s/o Bajirao Bhosale,
Age : 59 years, Occu.: Agri.,

B) Sahaji s/o. Bajirao Bhosale,
Age : 52 years, Occu. Agri,
Both R/o. Matola, Ta. Ausa,
District Beed

.. Appellants

VERSUS

The State of Maharashtra
Through the Collector,
Latur

.. Respondent

WITH

FIRST APPEAL NO. 141 OF 2002

Babu s/o Dnyanoba Bhosale,
(Since died, through L.Rs.)
Mahadeo s/o Babu Bhosale,
Age : 47 years, Occu.: Agri.,
R/o. Matola, Tal. Ausa,
Dist. Latur

.. Appellant

VERSUS

The State of Maharashtra
Through the Collector,
Latur

.. Respondent

FIRST APPEAL NO. 142 OF 2002

Rambhau s/o Sopanrao Suryawanshi,
(Since died, through L.Rs.)
Rajendra alias Rajabhau s/o Rambhau
Suryawanshi, Age : 57 years,
Occu.: Agri., R/o : Matola,
Tal. Ausa, Dist. Latur .. Appellant

VERSUS

The State of Maharashtra
Through the Collector,
Latur .. Respondent

FIRST APPEAL NO. 143 OF 2002

Dagdu s/o Dnyanoba Bhosale,
Age : 60 years, Occu.: Agri.,
R/o : Matola, Tal. Ausa,
Dist. Latur .. Appellant

VERSUS

The State of Maharashtra
Through the Collector,
Latur .. Respondent

FIRST APPEAL NO. 146 OF 2002

Bhagwat S/o Manikrao Bhosale,
Age : 41 years, Occu.: Agri.,
R/o : Matola, Tal. Ausa,
Dist. Latur .. Appellant

VERSUS

The State of Maharashtra
Through the Collector,
Latur .. Respondent

FIRST APPEAL NO. 147 OF 2002

Bhimrao S/o Babaji More,
Age : 71 years, Occu.: Agri.,
R/o : Matola, Tal. Ausa,
Dist. Latur .. Appellant

VERSUS

The State of Maharashtra
Through the Collector,
Latur .. Respondent

FIRST APPEAL NO. 148 OF 2002

Walmik S/o Shankarrao Jamadar,
Age : 54 years, Occu.: Agri.,
R/o : Matola, Tal. Ausa,
Dist. Latur .. Appellant

VERSUS

The State of Maharashtra
Through the Collector,
Latur .. Respondent

FIRST APPEAL NO. 149 OF 2002

Babruwan S/o Dadarao Bhosale,
Age : 67 years, Occu.: Agri.,
R/o : Matola, Tal. Ausa,
Dist. Latur .. Appellant

VERSUS

The State of Maharashtra
Through the Collector,
Latur .. Respondent

Mr. V.D. Salunke, Advocate for the appellants
Mr. S.M. Jadhav, Advocate for the respondent/State

CORAM : M.T. JOSHI, J.

DATE : 09/02/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. Aggrieved by the direction to pay the compensation lesser than claimed by the land owners in land acquisition proceedings, under the common land acquisition notification, the present appeals are preferred.
3. The agricultural lands of the present appellants were acquired by the State for the purposes of Lower Terna project Makni, Taluka Ausa, District Latur of village Matola. The notification under section 4 of the Land Acquisition Act, 1894 was published on 28th June, 1984.
4. The Land Acquisition Officer has considered the quality of the land and refused to place reliance on any

sale instance and offered the price at the rate of Rs. 10,500/- per hectare. According to the present appellants, the market price of the land was Rs. 50,000/- per hectare. Therefore, they filed land acquisition reference proceedings.

5. Before the learned Reference Court, the present appellants/claimants relied over one sale instance at Exhibit-17 and the certified copy of the judgement passed in earlier land acquisition reference No. 584/1989 and others at Exh-34, which were decided by the learned Civil Judge Senior Division. While the said judgement showed that the market price of the land thereunder was fixed at Rs. 45,000/- per hectare, the sale instance relied on by the present appellants/claimants before the learned Reference Court showed that the market price of the land thereunder was Rs. 26,000/- per hectare.

6. The learned Judge of the Reference Court has observed that since there is no material to show as to whether the judgement in land acquisition reference No. 584/1989 and others was challenged in the High Court and

whether the same has been confirmed, no reliance on the same was placed. On the basis of sale instance before it, as detailed supra, the learned Reference Court enhanced the compensation at Rs. 26,000/- per hectare. Hence, the present appeals.

7. Mr. V.D. Salunke, learned counsel for the appellants, submits that the learned Judge of the Reference Court ought not to have discarded the judgement (Exh-34) when it related to the same land acquisition proceedings and wherein the issue of market price of the land was of the same village i.e. village Matola.

8. The learned A.G.P. submitted that there was no comparison between the acquired lands as the lands of the present appellants were dry-crop lands, while the lands, the price of which was in issue in the earlier land acquisition references, were irrigated lands.

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

"Whether the award passed by the learned Reference Court represents the true market value of the acquired lands?"

My finding to the above point is in the affirmative. All the appeals are, therefore, dismissed without any order as to costs, for the reasons to follow :-

R E A S O N S

10. It should be noted that the sale instance (Exhibit-17) showed that one land bearing Survey No. 158/B, admeasuring 2 acres 2 gunthas was sold during the same period of acquisition for a price of Rs. 21,000/-. Thus, the sale instance showed that the said land was sold for a consideration of Rs. 26,000/- per hectare. The learned Judge of the Reference Court has accepted the same price as the true market value of the lands acquired.

11. As regards the earlier judgement passed by the learned Reference Court at Exhibit-34 in Land

Acquisition Reference No. 584/1989 and others, the lands thereunder were also from the same village Matola. The reading of the judgement would, however, show that the lands under the sale instances those were relied in the said judgement were fully irrigated land and therefore, for irrigated land, the market price was held at Rs. 45,000/- per hectare.

12. In the present case, the 7/12 extract filed by the appellants in each case at Exhibit-21 to Exhibit-29 showed that the dry-crops were grown in the lands earlier to the publication of the notification under section 4 of the Land Acquisition Act. Only one land owner, namely, Babruwan, who has now filed First Appeal No. 149/2002, has claimed that he used to grow sugarcane crop in his field. He had filed one receipt from one Cooperative Sugar Factory to show that in the year 1981-82, he sold sugarcane crop. His acquired land, however, showed that it was a dry-crop land. Appellant Babruwan admitted in his cross-examination that besides the acquired land, he held 7 to 8 acres of another land. In the circumstances, the learned Judge of the Reference Court held that his acquired land cannot be called as

irrigated land. No fault can be found in the said finding of the learned Reference Court as the 7/12 extract regarding the land of appellant Babruwan showed that he had grown dry-crop land from the acquired land.

13. In the earlier award (Exhibit-34), the price of the land was fixed at Rs. 45,000/- per hectare for the irrigated land. In the present case, the market price was arrived at Rs. 26,000/- per hectare for the dry-crop land. That was basically on the strength of sale instance (Exhibit-17), relied upon by the appellants themselves. No fault, therefore, can be found with the reasoning of the learned Reference Court. In the result, the following order:-

14. All the present appeals are dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE